

Board of Health Minutes
Monday, April 19, 2016 5:30 PM
Meeting Room C, Town Hall
25 Green Street, Ipswich, MA

Call to Order: Susan Hubbard called the meeting to order at 5:33 PM.

Members attending: Susan C. Hubbard, Dr. Spencer Amesbury and Margaret McDermott were in attendance.

Others in attendance: Director of Public Health; Colleen Fermon, Public Health Administrative Assistant; Jennifer Brown, Daniel Johnson R.S., Hugh L. Graham, P.E., Meghan Kearney, Gerry Beauchamp, Ray Iabonacci, Kevin Babineau, Sonia Johnson, Richard Nylan and Elizabeth Berkman.

Citizens Queries: None.

Minutes: Margaret McDermott made a motion to approve the February 11, 2016 minutes. Susan Hubbard seconded the motion. The motion passed unanimously. Margaret McDermott made a motion to approve the March 7, 2016 minutes. Susan Hubbard seconded the motion. The motion passed unanimously.

Hearings:

5:33 - YMCA of Ipswich – 110 County Road – Represented by Merri-Lynn Lathrop – Pool Variance

Previously, at the December 14, 2015 Board of Health meeting the Board granted variances for the proposed pool that were subsequently approved by the Board of Health in December 2015. The variances were subsequently approved by the MA Department of Public Health.

Meghan Kearney and Gerry Beauchamp presented, and a hearing was conducted to consider two additional variance requests from 105 CMR 435.000. The Ipswich YMCA requested variances from 435.06 (1) (d): Water Circulation and Filtration Systems) and 435.35(2): Water Slide Flumes.

As proof of manifest injustice, the YMCA said the variance is required for the pool turnover rate since 105 CMR 435.000, Minimum Standards for Swimming Pools, State Sanitary Code, Chapter V, has not been updated since 1998 and does not take into consideration diverse multi-venue recreational pools that are built in Massachusetts and across the country. The regulation was originally written for a one hour turnover rate for flumes that emptied into small pools of water such as under 5000 gallons. The YMCA pool is 120,000 gallons so a 1 hour turnover rate would require a filtration system that would either increase the flow rate of the pool to an unsafe rate (about the strength of a fire hose) or multiple filtration systems.

The YMCA is proposing to provide the same degree of protection as a 1 hour turnover rate by having a 4 hour turnover rate with the addition of ultraviolet (Spectralight) as a secondary disinfection system.

Susan Hubbard questioned why the YMCA did not choose a 2 hour turnover rate for more protection. Ms. Kearney said there is an 8 hour turnover rate for swimming pools. They proposed the 4 hour turnover rate which is the same rate used for wading pools and added the ultraviolet as a secondary disinfection system. Ms. Kearney explained that the YMCA is proposing to provide the same degree of protection to bathers with a 4 hour turnover rate by adding the ultra violet as a secondary disinfection system.

Ms. Hubbard asked how the ultraviolet system worked. The ultraviolet system automatically and continuously destroys ammonia and organic compounds faster and more efficiently than traditional filtration systems, bringing the combined chlorine level to near zero. The ultraviolet light does not leave the sterilization chamber or produce any residual in the water making ultraviolet systems a very safe and effective secondary form of disinfectant providing the same level of protection for bathers.

At the meeting Ms. Fermon noted that the variance request was informally discussed with Steven Hughes, Director of Community Sanitation, for the Massachusetts Department of Public Health. Mr. Hughes felt the variance could be sought and likely would be approved by the Department of Public Health if the ultraviolet is provided.

The Board reviewed the variances requested, the Spectralight Ultraviolet system information, and associated pool plans for the Ipswich YMCA pool.

It was the decision of the Board of Health that the YMCA proved manifest injustice and the same degree of protection. Margaret McDermott made a motion to grant the variances requested with the following conditions:

1. The ultraviolet system must be maintained, cleaned and inspected in accordance with the manufacturer's recommendations.
2. The ultraviolet lamp must be replaced annually before the start of the pool season.
3. A certificate of construction compliance must be submitted for the ultraviolet system prior of the issuance of the original pool permit. The certification(s) shall include a statement that the ultraviolet system has been constructed or installed in accordance with the manufacturer's instructions and the approved plans and specifications.

Susan Hubbard seconded the motion. The motion passed unanimously.

The Board noted that the variance letter shall be filed with the Department of Public Health, which shall approve, disapprove, or modify the variance within 30 days from receipt thereof. If the Department fails to comment within 30 days, its approval will be presumed. No work shall be done under any variance until the Department approves it or 30 days elapse without its comment, unless the Board of Health or the Department certifies in writing that an emergency exists.

5:37 - Hearing – Ray Iacobacci – 14 Plains Road - Variance to Extend Soil Testing Results

Ray Iacobacci presented, and a hearing was conducted, upon his request, to consider a variance to Ipswich Board of Health Septic System Regulations 8.9; which states that soil testing conducted for new construction or upgrades shall be valid for two (2) years from the date of testing. Soil testing was conducted on March 27, 1997 and March 21, 2006 and was previously extended until December 31, 2015. Mr. Iacobacci requested another variance for the results of both testing dates.

At the meeting Mr. Iacobacci explained that previously the undeveloped property had been tied up in litigation. He now intends to sell the property. A septic design plan was approved on June 11, 1998 but the disposal system construction permit (DSCP) expired on June 11, 2002 and no more extensions can be granted on this permit. Mr. Iacobacci requested an extension on the soil testing so a new septic plan can be designed.

Margaret McDermott asked if any changes had been made to the property. Mr. Iacobacci confirmed there have been no changes to the site since the March 21, 2006 soil testing was conducted.

Susan Hubbard made a motion to grant another variance and extend the use of the soil testing results conducted on March 27, 1997 and March 21, 2006 until December 31, 2016 and that no further extensions will be granted. Margaret McDermott seconded the motion.

5:39 - Hearing – Winter Street Realty Corp. – 2 Winter Street, Apt. #4 - Represented by Kevin Babineau – Appeal of Order for Correction; Violations of Minimum Standards of Fitness for Human Habitation

As a result of a complaint received by this office, an inspection was conducted on March 22, 2016, at 2 Winter Street, Unit 4, Ipswich in accordance with Chapter II of the State Sanitary Code, 105 CMR 410.000: Minimum Standards of Fitness for Human Habitation. An order for correction was issued on March 22, 2016.

On March 28, 2016 the Public Health Office received a request from Mr. Babineau for a hearing before the Board of Health to discuss the order for correction and his desire to have it modified since 2 Winter Street is a rooming house and the 11 rooms are offered as rooming units not dwelling units.

At the meeting, the Board reviewed the violations and discussed Mr. Babineau's request for the multi-unit building to be considered a rooming house/motel. It was noted that under Zoning By-laws a motel is allowed and that Mr. Babineau had submitted an application for a motel license to the Public Health Office on April 24, 2016.

Mr. Babineau explained that the eviction process for the occupant in Unit 4 commenced prior to the inspection. He has had challenges obtaining access to the unit from the tenant which is why he is requesting an extension. Additionally, he attested that the multi-unit building was a motel from August 1989 through August 1991 but unfortunately his mother failed to keep up with the required paperwork so he is taking over now and wants to straighten out the motel license. Mr. Babineau stated 2 Winter Street was a motel when it was owned by his grandfather and he would like for it to be licensed as a motel again. He submitted an application for a motel license to the Health Office on April 24, 2016. Mr. Babineau requested the Board accept Unit 4 as a rooming unit and withdraw the violations of 105 CMR 410.100 related to the lack of a kitchen sink and stove/oven.

Mr. Babineau also attested that he is in the process of cleaning up the back yard. He confirmed that the shed, tires, snowmobile, and scrap metal had been removed. On April 11, 2016, he sent the tenant a letter to gain access to the unit on April 15, 2016 to make the necessary repairs. Unfortunately, on April 13, 2016 the tenant informed Mr. Babineau that he was denying him access until after the court hearing on May 5, 2016.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon felt the Board could uphold the entire order if the Board felt the unit was let as an apartment and not a rooming unit. If the Board views this as a dwelling unit it requires a kitchen sink, stove/oven, and space for a refrigeration. If the Board views this as a rooming unit then it does not require said kitchen requirements and the Board could modify the order or uphold the order.

The Board considered their options and accepted that the multi-unit building is a rooming house. Susan Hubbard made a motion to modify the order for correction and (1) withdraw the violations of 105 CMR 410.100 since a rooming unit is for sleeping and living but not cooking, and (2) extend the timeframe for correction of the remaining violations until June 19, 2016. Dr. Amesbury seconded the motion. The motion passed unanimously.

The board noted that once the corrections have been completed, Mr. Babineau must schedule a re-inspection. A re-inspection must be conducted by a representative of the Public Health office to confirm compliance.

5:52 - Hearing - Edward Greenburg and Jann Taylor – 17 Hillside Road – Represented by Sonia Johnson – Appeal of Order for Correction; Violations of Minimum Standards of Fitness for Human Habitation

As a result of a complaint received by the Public Health Office, an inspection was conducted on February 22, 2016, at 17 Hillside Road, Ipswich in accordance with Chapter II of the State Sanitary Code, 105 CMR 410.000: Minimum Standards of Fitness for Human Habitation. Subsequently, an order for correction was issued on February 22, 2016 for the violations found.

On March 11, 2016, the Public Health Office received a written request from Mr. Greenburg and Ms. Taylor for a hearing before the Board of Health for an extension to make the necessary repairs. Additionally, they requested to have the order to correct for the electrical panel in the garage withdrawn.

At the meeting, the Board reviewed the violations and discussed the requests on the order for correction. The owner's representative, Sonia Johnson, confirmed that the owners have had challenges obtaining access to the building from the tenant which is why they are requesting an extension. Ms. Johnson provided the Board with the owner's plan of correction dated April 12, 2016. The Board reviewed the plan.

Additionally, Ms. Johnson provided the Board with a copy of an electrical bill for rewiring of the electric panels completed on April 5, 2014. She attested that the licensed electrician, Mark Swett, confirmed the electrical panel was old but functional.

Coleen Fermon noted that the Building Department has no record of an electrical permit issued for this address therefore the work was never inspected since no permit was ever issued to Mr. Swett.

Dr. Amesbury made a motion to uphold the order for correction for all violations cited, including the electric panel and to modify the order and extend the timeframe for correction. A licensed electrician needs to apply for a wiring permit and have the electric panel inspected by the Wiring Inspector so compliance can be confirmed. The violations related to locks, 105 CMR 410.480, must be corrected in five days, on or before, April 24, 2016. The other violations must be corrected on or before June 19, 2016. Susan Hubbard seconded the motion. The motion passed unanimously.

It was also the decision of the Board that if the owners are having difficulty obtaining access to the unit to make repairs, they may need to pursue legal options in court to gain access.

The Board noted that once the corrections have been completed the owners must schedule a re-inspection. A re-inspection must be conducted by a representative of the Public Health office to confirm compliance.

6:04 - Hearing – Michael Gorrell – 47 Labor In Vain Road - Represented by H.L. Graham Associates, Inc. – Variance to Extend Soil Testing Results

Hugh L. Graham of H.L. Graham Associates, Inc. presented, and a hearing was conducted, upon the owners request, for a variance to Ipswich Board of Health Septic System Regulations 8.9; which states that soil testing conducted for new construction or upgrades shall be valid for two (2) years from the date of testing. Soil testing was conducted on July 6, 2005.

At the meeting it was noted that a septic design plan was approved and the system installed on June 22, 2007. The system is now in hydraulic failure. Mr. Graham said he suspects there may be an issue with groundwater getting into the pump chamber so he will install a counter on the pump control panel to monitor how much water is going out to the trenches. Additionally, he will install stone and pipe leach trenches.

The approved plan had a reserve area between the primary trenches. Mr. Graham said a new septic plan will be designed using the reserve area for conventional trenches and requested to be allowed to use the soil testing from July 6, 2005 for the new design.

Based on this information, Susan Hubbard made a motion to grant a variance and extend the use of the July 6, 2005 soil testing results until December 31, 2016. Margaret McDermott seconded the motion. The motion passed unanimously.

6:09 - Hearing - Michael DiPietro and Amanda Baryshyan – 32 Plover Hill Road – Failure to Comply with Septic System Pumping Order

The owners did not attend the meeting. Colleen Fermon reviewed the history of the property for the Board.

The septic systems serving 32 Plover Hill Road failed a Title 5 Inspection on September 26, 2013. In accordance with 310 CMR 15.000, Title 5, the previous owner was ordered to upgrade the septic system within 2 years from the date of inspection; by September 26, 2015. The current owners purchased the property on October 4, 2013 so the responsibility for the upgrade transferred to them.

At the December 14, 2015 meeting, the Board discussed with Mr. Dipietro a timeframe for bringing the property into compliance. It was the decision of the Board to grant an extension for the installation of the new septic system until December 15, 2016 with the condition both septic systems were to be pumped in December 2015 with proof of pumping submitted to this office on or before January 4, 2016. The septic system must be installed with the Certificate of Compliance issued on or before December 14, 2015.

In a letter dated January 14, 2016, the owners were informed that the deadline had passed and this office had not received the requisite pumping report. In a second letter dated February 16, 2016, the owners were informed that if they failed to submit the records on or before February 25, 2016 they would be required to attend the next regularly scheduled Board of Health meeting to discuss their non-compliance. No pumping report was received. Subsequently, a letter dated March 23, 2016 required them to attend the April 19, 2016 meeting to discuss their noncompliance with a Board of Health order.

At the April 19, 2016 meeting, the Board discussed the owner's noncompliance with the December 14, 2015 Board of Health order. Pursuant to 310 CMR 15.305, a failed septic system must be upgraded within two years of the date of inspection unless the continued use of the system is permitted by the Board of Health in accordance with provisions of an enforceable schedule for upgrade. Additionally, pursuant to 105 CMR 410.000, failure to maintain a sewage disposal system (septic system) in compliance with 310 CMR 15.000 is sufficient basis for deeming a dwelling unfit for human habitation.

Susan Hubbard made a motion ordering the owners to provide the Public Health Office with a pumping record for both systems serving 32 Plover Hill Road before May 9, 2016. If pumping records for both systems are not received before May 9, 2016, the dwelling may be deemed unfit for human. Dr. Amesbury seconded the motion. The motion passed unanimously.

6:11 - Hearing - Marcia O'Hara – 53 Skytop Road – Represented by Domestic Septic Design – Septic Variances

Daniel Johnson R.S., presented and a hearing was conducted to consider alternative technology waivers and variances from Title 5 and Board of Health Septic System Regulations for the sewage disposal system plan # J-2450, designed by Daniel Johnson, R.S., dated January 15, 2016 and last revised March 24, 2016 for the 2 bedroom dwelling located 53 Skytop Road, Ipswich, Massachusetts.

Mr. Johnson explained that this is a voluntary upgrade for the existing system designed in 1973. The existing system has a septic tank and a leaching pit. Soil testing was conducted in January, 2016 which revealed sandy loam and a high groundwater table. Because of the icy conditions and the sloping land it was difficult to do deep hole testing so only one was completed. Additionally, a sieve analysis was done in lieu of a percolation test.

The Board noted that a 2 bedroom deed restriction was recorded at the registry of deeds on September 3, 2003.

Mr. Johnson selected the use of a Presby Enviro-Septic System since any conventional system would require a large retaining wall. Mr. Johnson confirmed he would evaluate the existing septic tank and certify it is structurally sound and water tight. If the tank is not, it will be replaced with a 1500 gallon monolithic tank. The following variances were requested:

- To allow a 2 foot reduction between the bottom of the leaching area and estimated seasonal high groundwater (ESHGW) with the use of a Presby Enviro-Septic System. A 2 foot separation is provided.
- To allow a 40% reduction in the leaching area size with the use of a Presby Enviro-Septic System.
- To allow the use of 1 testpit for the design of the system.
- To allow the use of a sieve analysis in lieu of a percolation test.
- To allow the use of the existing 2-piece 1,250 gallon septic tank instead of a monolithic tank.

It was the decision of the Board to approve the plan and grant the variances as requested with the following conditions:

- Prior to the issuance of the Disposal System Construction Permit, the System Installer must certify in writing to the Designer, the Public Health Office, and the System Owner that (s) he is a locally approved System Installer and is certified by or has received appropriate training by the Company. The Presby certification must be submitted to the Public Health Office.
- Prior to issuance of the Disposal System Construction Permit and after recording the Notice of Alternative Disposal, the System Owner shall provide to the Public Health Office a copy of a certified Registry copy of the Deed Notice bearing the book and page/or document number. A sample of the Notice of Alternative Disposal can be found on the Massachusetts Department of Environmental Protection's website <http://www.mass.gov/dep>.
- Prior to the issuance of a Certificate of Compliance by the Public Health Office, the System Installer and Designer must provide, in addition to the certifications required by Title 5, certifications in writing to the Public Health Office that the System has been constructed in compliance with the terms of the Approval.
- Prior to the issuance of a Certificate of Compliance, the Installer must provide a bill of lading certifying the sand meets ASTM C-33.
- Prior to the issuance of a Certificate of Compliance, the Installer must provide a completed "System Installation Form" to the Public Health Office before the Certificate of Compliance can be issued.
- An Ipswich licensed installer must come to the Public Health Office prior to beginning the project to complete the application and submit a trench permit application signed by the owner and the \$50 trench permit fee. The installer will receive the disposal system construction permit, the trench permit and a signed copy of the approved plan.

- A confirmatory test pit will be conducted at the time of construction. If possible, a percolation test will be conducted if ground water is below the testing level.
- The designer shall evaluate the existing septic tank and certify it is structurally sound and water tight if it is to remain. It is recommended to excavate around the tank to view the mid seam and see if it is leaking.

Dr. Amesbury seconded the motion. The motion passed unanimously.

The Board noted that if the property transfers title before the Certificate of Compliance is issued, a Title 5 inspection must be done or the owner must sign an agreement with the Board of Health to upgrade the system within 2 years from the date of transfer.

6:18 - Hearing - Michael Gambardella – 3 Valley Drive – Represented by the Morin-Cameron Group, Inc. – Septic System Repair or Upgrade

Colleen provided background information for the Board.

A 2 bedroom septic system which has a leaching area (2 trenches) and a distribution box was installed sometime after March 7, 1991 but no house was constructed on the property and no septic tank was installed. In 2007, the Public Health Office determined that there was no proof a Certificate of Compliance was ever issued for the partial septic system installed. Without a Certificate of Compliance, there is no evidence that the installed system was ever approved by the Board of Health and, therefore, the existing septic system cannot be utilized. Subsequently, the owner had soil testing conducted on April 23, 2008 for new construction. Four deep holes were completed but no percolation testing was done due to groundwater interference. Previously, at the May 5, 2008 Board of Health meeting the Board granted a variance to allow for the percolation test to be run between May 31, 2008 and September 1, 2008. Although the Board allowed a percolation test to be performed outside of the new construction season which is between May 31, 2008 and September 1, 2008; no percolation test was completed.

At the May 7, 2012 Board of Health meeting, The owner requested a variance to Ipswich Board of Health Septic System Regulations 8.9; which states that soil testing conducted for new construction or upgrades shall be valid for two (2) years from the date of testing. He requested to be allowed to use the soil testing from April 23, 2008 for the septic design and asked for an extension of the test results. He confirmed that no changes had been made to the site since the date of testing. At the meeting Mr. Gambardella said that was the intention of his engineer to conduct percolation tests during the new construction season. It was noted that an application for soil testing was received by the Public Health Office on April 17, 2012. Subsequently, Mr. Gambardella was informed that a Request for Determination of Applicability needed to be filed with the Conservation Commission before soil testing could be performed. It was the decision of the Board of Health to grant a variance and extend the use of the soil testing results conducted on April 23, 2008 until December 31, 2012. It was noted by the Board that any additional testing must be conducted prior to the May 31st testing deadline for new construction per Board of Health Septic System Regulations 8.1. Again, no percolation test was done.

John Morin, P.E., and Michael Gambardella were present and a hearing was held on April 19, 2016 to discuss the undeveloped lot, the disposal permit issued in 1991, the partial system that was constructed at some point after that, subsequent soil testing done on the property and the current condition of the installed septic system components. Mr. Morin said that Mr. Gambardella purchased the lot in March 1991. The septic system was installed without the septic tank in 1994 by Richard Brocklebank & Sons, Inc.

Mr. Gambardella said he filed an application for soil testing in April 2012 in order to find an alternate septic location in order to provide more room for a proposed structure. At that time, there were some concerns that portions of the property may fall under the jurisdiction of the Conservation Commission. A filing was submitted to the Conservation Commission and it was determined that the property did not fall under the jurisdiction of the Commission. Mr. Gambardella also attested that the Conservation Commission misplaced his paperwork which caused a delay in their determination. Subsequently, Mr. Gambardella decided to move forward with the lot development and leave the septic system where it was.

A groundwater determination was conducted on July 22, 2015 by Domestic Septic Design, Inc. Ms. Fermon witnessed the groundwater determination at 3 Valley Drive and it was determined that the system was above the estimated seasonal high groundwater.

Ms. Fermon said the leaching trenches were above ground water elevation but she also found that a section of one of the two 32 foot leaching trenches had been damaged and was no longer properly installed. The pipe was sticking out of the ground, about 6 feet of the trench was missing, and since it had been faded by the sun, the pipe had been this way for some time. Subsequently, after receiving inquiries about 3 Valley Drive and its development potential she sent a letter to the owner dated November 23, 2015 and recommended the owner go before the Board of Health to discuss the existing system and whether it can be repaired given in its current condition. Additionally, if a new system was required, the Board of Health would need to determine if the design should meet new construction standards or be treated as an upgrade situation.

Mr. Morin said he was hired by Mr. Gambardella to do a land survey, stake out the property lines, locate the existing septic system components, and to assist in the development of the lot. He requested to be able to repair the system in its current condition. Mr. Gambardella said the trench was damaged during the 2008 soil testing and that's why the system is damaged. Mr. Morin concurred. He also attested that the trenches appear to meet what was originally designed and he requested to have this looked at as a repair.

Ms. Fermon stated that she contacted The MA Department of Environmental Protection to get an opinion on whether or not the partial system could be repaired since it is a partial system installed under the 1978 Code without a certificate of compliance. Also she inquired if the Board of Health could recognize the system at all since it was incomplete and not tied to a dwelling foundation. Claire Golden of The MA Department of Environmental Protection responded that it was up to the Board of Health to decide if the system could be repaired. She also said that to recognize a septic system, the building sewer should be tied into a building foundation as well as the septic system. There is no foundation on the property and the building sewer and septic tank were never installed.

The Board noted that since the system was installed prior to 1995 the system is undersized compared to today's requirements and the system has no certificate of compliance. The Board also noted that no dwelling foundation was ever constructed.

Attorney Chip Nylan, representing the abutter at 6 Hillside Road, addressed the Board. Mr. Nylan felt the system was never completed. Mr. Gambardella had an approved plan and the upgraded septic system should have been installed when the permit was valid. Additionally, there was no Certificate of Compliance issued for the partial system since there was never an As-built submitted or approved. Now, 25 years later the owner is asking for relief. Mr. Nylan opposed Mr. Gambardella's request.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon was not in favor of using the partial system. She did not feel a damaged, pre 1995 leaching system should be used. She felt a fair compromise was to require a new system but to allow it to be viewed as an upgrade. Full compliance needs to be sought but Maximum Feasible Compliance will be allowed if full compliance is not possible. Ms. Fermon was also not opposed to requiring the system to meet new construction standards.

Dr. Amesbury made a motion that the existing leaching system could not be repaired and used to serve a dwelling or other structure. If the property is going to be developed, a septic system meeting Title 5 new construction standards and Board of Health Septic System Regulations is required. Susan Hubbard seconded the motion.

The Board discussed the request. Susan Hubbard and Margaret McDermott agreed that a 25 year old system could not be utilized. Dr. Amesbury felt that if parts of the existing system can be demonstrated to be useable he felt they could be incorporated into the new design. Since a Certificate of Compliance was not issued for the partially installed system and one of the two trenches needed to be repaired, the system needed to be replaced.

The motion, that the existing leaching system could not be repaired and used to serve a dwelling or other structure and that a septic system meeting current Title 5 new construction standards and Board of Health Septic System Regulations is required if the property was going to be developed, passed unanimously.

6:40- Hearing - Elizabeth Berkman and Philip Anderson – 6 James Road – Order of Condemnation

Colleen Fermon reviewed the history of the property for the Board. In response to complaints received about sewage breakout from the property, an inspection was conducted on December 15, 2006. Evidence of discharge of effluent from the system to the surface of the ground was found which is a violation of the State Environmental Code, Title 5, 310 CMR 15.000 so a notice of violation dated December 19, 2006 was issued.

In a letter dated January 12, 2009, the Board of Health notified the owners that the septic upgrade plan designed by Daniel Johnson, R.S., plan # J-2177, dated January 14, 2008, revision date November 17, 2008, for the three bedroom dwelling located at 6 James Road, Ipswich, Massachusetts was approved. They were order to have the septic system installed and the Certificate of Compliance issued by July 31, 2009.

At the meeting of the Board of Health on August 10, 2009, a hearing was held to discuss an extension for the installation of the upgraded septic system serving 6 James Road. At the meeting the owners explained they were not financially able to keep the home and have put it on the market to be sold. It was the decision of the Board to have them attend the February 2010 meeting to give an update of where they were in the process of selling the home and to provide a timeframe for bringing the property into compliance.

At the meeting of the Board of Health on February 2, 2010, based the owner's assertion that the home was still on the market to be sold and the financing of the upgrade was contingent upon the sale of the property, it was the decision of the Board to have the owners attend the July 2010 meeting.

At the August 2, 2010 Board of Health meeting, the owners attested that the home was still on the market and they were working with their mortgage company to re-finance the home and install the septic system. It was the decision of the Board to have the owners attend the February 2011 meeting to give an update of where they were in the process of selling the home and to provide a timeframe for bringing the property into compliance.

At the meeting of the Board of Health on February 14, 2011, the owners attested they re-financed the home and have obtained three bids for the installation of the septic system. It was the decision of the Board to grant another extension for the upgrade of the system since the owners have been unable to sell the home and the financing of the upgrade is contingent upon the sale of the property. The owners were ordered to install the system by December 15, 2012.

At the September 12, 2011 meeting, the owners explained they would like to be considered for the town's septic loan program that is currently being developed. It was the decision of the Board to grant them an extension until April 6, 2013 so they could pursue a septic loan with the town.

At the meeting of the Board of Health on December 3, 2012, the owners attested that they received pricing for the new system which is too expensive for them to consider and that they received some negative feedback on the alternative technology used in the design. They stated that a Title 5 Inspection was never done since the system was determined to be in failure due to the breakout of effluent in 2006. The owners requested the opportunity to have a Title 5 Inspection done to determine if there is a problem with the distribution box or what was causing the breakout. It was the decision of the Board to grant 60 days; by February 3, 2013, to have a Title 5 Inspection conducted along with a groundwater determination at the location of the existing leaching area with the results provided to the Public Health Office. If the system was determined to be in failure, the upgraded system was to be installed with the Certificate of Compliance issued by December 31, 2013. Their Septic System Inspector, Paul Ricker, confirmed on February 1, 2013 that the septic system is in failure.

At the meeting of the Board of Health on February 10, 2014, the owners stated that their intentions were to obtain an equity loan and to pursue a septic betterment loan with the town. Unfortunately, they did not qualify for an equity loan. Additionally, their mortgage holder would recall the mortgage if they obtained a septic betterment loan with the town since the town would then become the priority lien holder on the property. It was the decision of the Board to grant another extension until December 31, 2014 to upgrade the septic system with the Certificate of Compliance issued by said date.

At the meeting of the Board of Health on December 8, 2014, another hearing was held to discuss a timeframe for the installation of the septic system. The owners attested that the property was back on the market to be sold, but they would need to do a short sale of the property in the next few months.

At the July 13, 2015 Board of Health meeting another hearing was held to discuss a timeframe for the installation of the septic system. The owners attested that they were in the process of doing a short sale of the property. Based on this information it was the decision of the Board of Health the septic system must be installed in 2015 or they would consider issuing a finding that the dwelling is unfit for human habitation which may result in an order of condemnation requiring the owners to secure the dwelling and the occupants to vacate the dwelling. The owners were ordered to install the septic system by December 31, 2015.

Delete Retail Food permit fees: <500 sq ft = \$50
500-<1000 sq ft= \$150
1001-<1500 sq ft =\$200

Add Farmers Market at \$50. Farmers Market vendors are currently being charged a \$50 fee under the retail permit fee for <500 sq ft that is proposed to be deleted.

Add Retail Food permit fee: 1500 sq ft or less =\$200

Add Retail Food- prepackaged non-potentially hazardous foods only permit fee of \$100

Increase Food Plan Review fee (including mobile) from \$100 to \$150;
Increase Food Plan Review revision fee from \$50 to \$75;
Increase HACCP plan review fee from \$50 to \$75;
Add Time as a Public Health Control plan review and food variance review fee of \$75.

Ms. Fermon also recommended increasing the pool and motel fees since they currently do not cover the inspection costs. It was the decision of the Board to make the following changes:

Increase motel license fee from \$50 to \$100;
Increase public or semi-public pool permit fee from \$100 to \$150;
Add public or semi-public pool plan review revision fee of \$75

Ms. Fermon had a discussion with the Town Attorney, since some homeowners are not paying for housing re-inspection fees. It was his recommendation that a late fee should be considered. He felt this would be helpful in the event the town needs to go to court or involve some other process to collect the fees. Ms. Fermon proposed a \$50.00 late fee for primarily housing and food re-inspection fees but all fees that are not paid within 30 days of the re-inspection date and that it will be added monthly or any increment thereof over the 30 days. Ms. Fermon explained that when re-inspection fees do not get paid, the Public Health Office runs the risk of having insufficient funds to pay inspectors.

It was the decision of the Board to add a late fee of \$50/month or increment thereof for all re-inspections fees not paid within 30 days of re-inspection date.

It was the decision of the Board to move forward with a public hearing. A notice will be published in the Chronicle that the Ipswich Board of Health will conduct a Public Hearing on Monday, May 9, 2016 at 5:30 pm at the Town Hall, Meeting Room C to discuss the proposed changes to the Fee Schedule.

Review of Board of Health Food Regulations

The Ipswich Agricultural Commission requested that the Board of Health review their current food regulation, specifically, provision 2 that prohibits residential kitchens for retail sale. The Agricultural Commission feels this provision is negatively impacting the Ipswich Farmers Market.

Jay Stanbury of the Agricultural Commission stated that potential vendors can't participate in the Farmer's Market due to the prohibition. He felt it was in the best interest of the town and economic development if the provision that prohibits residential kitchens for retail sale stricken from the regulation.

Ms. Fermon said she was not opposed to eliminating the provision that prohibits residential kitchens for retail sale. Ipswich currently has (1) one residential kitchen for retail sale selling cupcakes. There have been no issues with the establishment since the owner was granted variance a few years ago. Another entity was granted a variance but never moved forward on getting a residential kitchen for retail sale permit.

Ms. Fermon felt that provision 3; grease collection should also be eliminated. This is normally done but grease can be disposed of in a dumpster; it is not a special waste. Many people now sell used grease. She did not propose making any changes to provision 1.

Chapter III, Food Regulations originated in the 1980's. The Board discussed the proposed changes to Chapter III, Food Regulations.

It was the decision of the Board to make the following changes:

Delete 2, and 3 since they are covered by existing state regulation 105 CMR 590.00/1999 Federal Food Code.

2. No residential kitchens for retail sale will be allowed to operate in the Town of Ipswich.

3. All food service establishments of the town of Ipswich must have a separate waterproof container with tight fitting lid for the waste products for their grease traps. A grease reclamation service must be obtained by each food service establishment to dispose of the grease in an appropriate manner approved by the Ipswich Board of Health.

Amie Charland, Ipswich Farmer's Market Coordinator, said that she had a few inquiries about participating in the Farmers Market last year but the local regulation was seen as a barrier.

It was the decision of the Board to move forward with a public hearing. A notice will be published in the Chronicle that the Ipswich Board of Health will conduct a Public Hearing on Monday, May 9, 2016 at 5:30 pm at the Town Hall, Meeting Room C to discuss the proposed changes to Chapter III, Food Regulations.

Colleen Fermon noted that under provision 1, operators of residential kitchens for retail sale will need to be certified in food protection management. She asked if the Board wanted to keep it that way.

The Board felt it was important for anyone making food to have a basic understanding of proper food safety procedures so the certification requirement should remain.

Jay Stanbury said he could not speak for the Agricultural Commission but he personally felt it was a good idea to have the operators of residential kitchens for retail sale to be knowledgeable about food safety.

Amie Charland requested the Board treat the farmer's market as a temporary food event. She sees people making food at other farmers markets.

Colleen Fermon explained that a temporary food establishment is defined in the 1999 Food Code as a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration. Temporary food establishments are permitted and inspected by the Board of Health in accordance with Massachusetts Regulation 105 CMR 590.000 Minimum Sanitation Standards for Food Establishments - Chapter X. The Farmer's Market operates once a week for 16 consecutive weeks so a temporary food permit is not applicable. The state Farmers Market Guidelines need to be followed. The guidelines allow for food sampling and cooking demonstrations.

Ms. Charland questioned how the Farmer's Market can be made more like a temporary food event.

Ms. Fermon told Ms. Charland that she or any interested food vendor can pursue variance(s) and to seek approval from the Board of Health. The Board concurred. Another option is to have mobile food establishments become part of the market. Again the Ms. Charland.

Ms. Charland said they don't currently have the space to accommodate mobile food trucks.

Ms. Fermon explained that she has to enforce the regulations/guidelines as they have been written by the MA Department of Public Health. The only way for it to be done differently is through the variance process.

7:38 - Director of Public Health Report:

February and March Activities Report: The Board reviewed the reports. There were no questions.

Senate bill 2152; An Act to Protect Youth from the Health Risks of Tobacco and Nicotine Addiction: The proposed bill raises from 18 to 21 the age restriction on purchasing tobacco products, though individuals who turn 18 before January 1, 2017 would be allowed to continue to make purchases.

Senate Bill 2152 would prohibit the sale of tobacco products, including electronic cigarette products, to any individual under the age of 21. The bill also prohibits health care institutions, including retail establishments that sell pharmaceutical goods, from selling tobacco products.

Five Corners Café and Deli - 0 Central Street – Results of Second and Third Audit by the Consultant:

On February 19, 2016, a food permit was issued to Five Corners Café and Deli. The first audit by the consultant, Grace Martin, was done on February 27, 2016 and revealed the same violations that has been cited by the Food Inspector during previous inspections. The consultant retrained the operator and staff and a second audit was done mid-March. There were improvements made with the operator and establishment however Ms. Martin said the owner's attitude demonstrates that she is not willing to work through the process and is resistant to feedback.

Colleen Fermon agreed that Ms. McCormack is making improvements but is not open to the additional guidance that she is being given by the consultant which is a concern.

Dr. Amesbury agreed the operator did not seem receptive to the basics of the plan laid out by the Board. The Board concurred.

2015 Annual Report: The Board reviewed the report.

New England Biolabs Recombinant DNA Semiannual Summary Report of the Institutional Biosafety Committee: The Board reviewed the report.

Next Board Meeting: The next meetings of the Board of Health were scheduled for, May 9, 2016, June 6, 2016, July 18, 2016, August 8, 2016, September 12, 2016, and October 3, 2016 at 5:30 PM.

Adjourn: Susan Hubbard made the motion to adjourn at 8:00 PM. Margaret McDermott seconded the motion. The motion to adjourn passed unanimously.

Documents used at the April 19, 2016 Board of Health meeting:

- Minutes of February 11, 2016 and March 7, 2016 Board of Health meetings.
- Board of Health Fee Schedule.
- Board of Health Food Regulations.
- 105 CMR 590.000.
- Department of Public Health Residential Kitchen Brochure and FAQ's.
- Fee comparison chart for 14 communities and Ipswich for food, pool and motel fees.
- Ipswich YMCA variance request.
- March 21, 2006 soil testing logs for 14 Plains Road.
- Order for Correction dated March 22, 2016 for 2 Winter Street, Unit 4.
- Letter dated April 4, 2016 from Winter Street Realty Corporation.
- Order for Correction dated February 22, 2016 for 17 Hillside Road.
- Emails dated March 28, 2016, March 29, 2016, and April 8, 2016 for 17 Hillside Road from Jan Taylor and Edward Greenburg.
- July 6, 2005 soil testing logs for 47 Labor-In-Vain Road.
- Letters from Colleen Fermon dated February 16, 2016 and March 23, 2016 regarding 32 Plover Hill Road.
- March 14, 2016 letter from Michael DiPietro regarding 32 Plover Hill Road.
- Letter dated April 8, 2016 from John Morin, P.E., regarding 3 Valley Drive.
- Sketch plan of land dated March 10, 2016 from the Morin-Cameron Group, Inc. regarding 3 Valley Drive.
- Letter from Colleen Fermon dated April 23, 2016 regarding 3 Valley Drive.
- July 22, 2015 soil testing results from Daniel Johnson, R.S, for 3 Valley Drive.
- Notice of Variance dated May 10, 2012 for 3 Valley Drive.

- Soil testing results dated May 23, 2008 from Meridian Engineering for 3 Valley Drive.
- Disposal Permit number 91-6 and application for Sewage Disposal System Plan dated February 10, 1991 for 3 Valley Drive.
- Septic design plan for 53 Skytop Road.
- April 6, 2016 letter from the Town Manager, Robin Crosbie, regarding the Ipswich Board of Health Food Regulation.
- Letter dated January 13, 2006 from Colleen Fermon regarding 6 James Road.
- February Activities Report.
- 2015 annual Report for Health Department

Susan C. Hubbard, Chairperson

Dr. Spencer Amesbury, Board Member

Margaret McDermott, Board Member