

Board of Health Minutes
Monday, October 3, 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 5:30 PM.

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

Others in attendance: Director of Public Health; Colleen Fermon, Public Health Administrative Assistant; Jennifer Brown, Elizabeth Dupre, P.E., Daniel Johnson, R.S., Karen Costa and Jeff Carroll.

Citizens Queries: None.

Minutes: The September 19, 2016 minutes were not ready for approval.

Hearings:

5:31 - Hearing – Peter Wadsworth – 78 Little Neck Road – Represented by Domestic Septic Design, Inc. – Septic System Design Variances

Daniel Johnson presented, and a hearing was conducted to consider variances from Title 5 and Ipswich Board of Health Septic System regulations for a sewage disposal system plan # J-2464 designed by Daniel Johnson, R.S., dated July 11, 2016, and last revised August 2, 2016, for the 2 bedroom dwelling located at 78 Little Neck Road, Ipswich, Massachusetts.

Mr. Johnson said this was a voluntary upgrade of the existing cesspool. He proposed an upgrade with a combination 1,500 gallon septic tank and a 500 gallon pump chamber since there were limited options for the placement of two tanks due to the proximity of the dwelling to the Area of Critical Environmental Concern (ACEC). The following variances were requested:

- To allow a reduction in the setback from the septic tank/pump chamber to the foundation. A 4 foot setback is provided.
- To allow a reduction in the 150 foot setback between the septic system and the Area of Critical Environmental Concern (ACEC). An 11 foot setback is provided to the tank which is the closest component.

Mr. Johnson noted that an upgraded system in full compliance with 310 CMR 15.000 was not feasible since there was insufficient space to meet the offset requirement for the septic tank to the foundation without relocating the sewer pipe.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon said there was no way to get all components of the system beyond the 150 foot buffer zone of the Area of Critical Environmental Concern (ACEC). She recommended granting the variances as requested with the following conditions:

- A 2 bedroom deed restriction must be filed at the Southern Essex County Registry of Deeds with a copy provided to the Public Health Office prior to the issuance of the Disposal System Construction Permit.
- Conservation Commission approval must be obtained prior to the issuance of the Disposal System Construction Permit.
- 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.

Susan Hubbard made a motion to approve the plan with the conditions as enumerated by Colleen Fermon. Dr. Boreri seconded the motion. The motion passed unanimously.

5:32 - Hearing – Timothy Hilton – 28 Mill Road – Represented by Clear Water Environmental – Soil Testing Results Variance

Elizabeth Dupre of Clearwater Environmental presented, and 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 was heard. Soil testing was conducted on November 21, 2013 and June 30, 2016. Ms. Dupre requested a variance to extend the validity of the November 21, 2013 testing results for the new design.

At the meeting it was noted that a septic design plan had been submitted to the Public Health Office and is ready for approval but the soils variance is needed so the soil testing results from November 21, 2013 can be utilized for the design. Ms. Dupre confirmed that no changes have been made to the site since the date of soil testing.

The Board reviewed the two testing sites.

Susan Hubbard made a motion to grant a variance and extend the use of the November 21, 2013 soil testing results until December 31, 2016. Margaret McDermott seconded the motion. The motion passed unanimously.

5:35 - Hearing – Karen Costa – 8 Charlotte Road – Order for Correction; Housing Violations

Colleen Fermon provided background information for the Board. A probation officer filed a concern with the Ipswich Police Department about the condition of the dwelling. The Police Department forwarded the complaint to the Public Health Office. As a result of the complaint received by this office, a plain view inspection was conducted on April 15, 2016, in accordance with 105 CMR 410.000: State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation. Subsequently, an order for correction was issued on April 15, 2016 for the violations found along with a request to conduct an interior inspection. On May 28, 2016 another inspection was conducted which included the interior of the dwelling and then a second order for correction was issued.

On May 30, 2016 the Public Health Office received Ms. Costa's written request for a hearing before the Board of Health to discuss the orders for correction.

At the June 6, 2016 Board of Health hearing, it was the decision of the Board to modify the order and extend the timeframe for correction. The violations related to the sanitary condition of the kitchen and bedrooms were to be corrected on or before June 20, 2016. Compliance would be achieved when the kitchen and bedrooms had been cleaned, all rubbish, garbage and excess debris had been removed from the dwelling and the rooms were organized so that an ingress and egress path is provided in each room.

It was also the decision of the Board to modify the order and extend the timeframe for correction of the other violations cited on April 15, 2016. These violations were to be corrected on *or* before October 6, 2016.

A re-inspection was conducted on June 20, 2016 and the violations related to the sanitary condition of the interior rooms were corrected.

On September 26, 2016 Ms. Costa requested another hearing to discuss an additional extension on the orders for correction and to be on a payment plan for the \$400.00 in fees owed.

At the October 3, 2016 Board of Health meeting the Board discussed the requests. Ms. Costa attested she did not have the financial means to make the necessary repairs and was in the process of trying to have her mortgage loan modified and. Her loan modification was denied and she thought the home would be foreclosed on by October 1st so she did not worry about making the necessary repairs. Subsequently, she was informed by the mortgage company that she could try for other types of loan modifications. She attested that she was waiting to hear back from the mortgage company.

Ms. Costa said her roommate moved out but left a lot of debris in the yard. Additionally, her son was responsible for making holes in the walls and doors. With him gone, there will be no additional holes in the walls and doors.

Dr. Boreri asked what Ms. Costa's plan was to achieve compliance. Ms. Costa felt that some repairs would be in process soon. She could use fascia board to repair the holes. She has the doors but needs to hire someone to install them. The exterior wooden stairs also need a railing but she does not have the financial means to have this done.

Ms. Fermon noted that at the June 6, 2016 meeting the Board suggested that she contact Affordable Housing about a loan and the Council on Aging. Ms. Costa did not recall being told about this.

Margaret McDermott suggested Ms. Costa contact the Council on Aging. They know of handymen who are willing to help especially when there is an issue of safety such as the absence of railings. Susan Boreri said they could also help install the doors.

Additionally, Colleen Fermon suggested Ms. Costa talk with the Council on Aging about the Estate Handling Home Loan Program and Affordable Housing. Margaret McDermott said she had suggested this to Ms. Costa at the June 6, 2016 Board of Health meeting and again questioned why she had not done this. Ms. Costa said she would speak with the Council on Aging.

Susan Hubbard told Ms. Costa that the violations need to be corrected now and said a letter including both inspection reports which outline the violations, would be sent to her. Additionally, the Board provided Ms. Costa with the contact information for the Council on Aging.

Susan Hubbard made a motion to modify the order and extend the timeframe for correction. The violations cited on April 15, 2016 and May 28, 2016 must be corrected on or before November 4, 2016. If Ms. Costa fails to make the corrections a criminal complaint will be filed against her at the Northeast Housing Court for a failure to comply with a Board of Health order. Susan Boreri seconded the motion. The motion passed unanimously.

Once the corrections have been completed, Ms. Costa must call to schedule a re-inspection. A re-inspection must be conducted by a representative of the Public Health office to confirm compliance.

The Board discussed a payment plan for the fees owed.

Ms. Fermon provided the background and reviewed the history of non-payment. The total amount due for re-inspections conducted at 8 Charlotte Road is \$400.00. This fee was to be received by September 22, 2016 to avoid incurring any more late fees.

In a letter dated September 14, 2016, Ms. Costa was reminded that a seventy five dollar (\$75) fee was assessed to the property owner for each re-inspection conducted by a representative of the Public Health Office. Invoices dated June 9, 2016 and June 29, 2016 were sent to her for the re-inspection conducted on May 28, 2016. She was directed to pay the seventy five dollar (\$75) re-inspection fee within 30 days of the re-inspection date. Her payment was not received within the 30 days so a late fee of \$50 per month or increment thereof was assessed to her. A total of \$175 was to be paid to the Public Health Office for the May re-inspection. No payment was received so another late fee of \$50 per month or increment thereof was assessed to Ms. Costa. A total of \$225 was to be paid to the Public Health Office for the May re-inspection.

Additionally, an invoice dated June 27, 2016 was sent to Ms. Costa for the re-inspection conducted on June 20, 2016. She was directed to pay the seventy five dollar (\$75) re-inspection fee within 30 days of the re-inspection date. Her payment was not received within the 30 days so a late fee of \$50 per month or increment thereof was assessed to her. A total of \$125 was to be paid to the Public Health Office for the June re-inspection. No payment was received so another late fee of \$50 per month or increment thereof was assessed to Ms. Costa. A total of \$175 was to be paid to the Public Health Office for the June re-inspection.

Colleen Fermon asked why Ms. Costa never responded to the invoices. Ms. Costa said she did not have the money to pay for the re-inspection fees and didn't realize it would build up so much. She was unaware of the late fees.

Susan Hubbard asked Ms. Costa how much she was able to pay right away. Ms. Costa thought she could pay \$80.00.

Susan Hubbard asked Ms. Costa how much she was able to pay per month. Ms. Costa thought she could pay \$40.00 per month.

Susan Hubbard felt the fees owed could be capped at \$400.00 if Ms. Costa complies with the payment plan as outlined. The Board concurred.

Susan Hubbard made a motion to allow Ms. Costa to pay \$80.00 on October 3, 2016 and then starting in November she is to pay \$40.00 per month until the balance has been paid in full. No additional late fees will be assessed to Ms. Costa provided that she complies with the payment plan. Dr. Boreri seconded the motion. The motion passed unanimously.

5:52 - Hearing – Jeff Carroll – 7 Rear Blair Drive – New Construction Soil Testing Variance

Jeff Carroll presented, and the Board heard a request for a variance to Ipswich Board of Health Septic System Regulations 8.1. In accordance with Board of Health Septic System Regulations 8.1; soil testing season for new construction on undeveloped lots shall be from March first to May thirty first. Soil testing for upgrades or upgrades with an increase in flow shall be allowed throughout the year.

Ms. Fermon provided some background information for the Board. Previously, soil testing was conducted on April 26, 2009 which showed successful testing but the Public Health Office never received the Engineer's records. As the proposed buyer Mr. Carroll is requesting a variance to conduct soil testing outside the new construction testing season to see if the lot can be developed before making an offer to purchase the property.

Susan Hubbard asked how soon testing would be conducted. Mr. Carroll said he wanted to have soil testing done as soon as possible.

Ms. Hubbard noted that the Board typically does not grant a variance in this situation but since there were previous testing results, Ms. Hubbard said she did not have concerns regarding the results of additional testing outside the new construction season.

Susan Hubbard made a motion to grant a variance to Ipswich Board of Health Septic System Regulation 8.1 and allow soil testing to occur outside the new construction season since soil testing for new construction was previously conducted on April 26, 2009. Testing must be conducted by November 30, 2016. Margaret McDermott seconded the motion. The motion passed unanimously.

It was noted by the Board that the Conservation Commission must determine that the testing areas are not within their jurisdiction prior to the scheduling of testing. Soil testing will be scheduled once the soil testing application, trench permit application, and the associated fees (\$250) have been submitted to the Public Health Office and Conservation Commission approval has been granted.

6:09 - Discussion:

Enforcement Procedures and Re-inspection Policy for Food Establishments:

Ms. Fermon reviewed the following enforcement procedures and re-inspection policy for food establishments.

A food service operator must correct all violations of the 105 CMR 590.00 during the inspection or by the time allowed in the inspection report.

Re-inspection Procedures – Ipswich Public Health Department

Types of Inspections:

- Routine
- Re-inspection
- Second re-inspection
- Third re-inspection

How many days do I have to correct violations?

- **Routine** Critical violations – immediately
Non critical violations – 10 days
A re-inspection will be scheduled for 10 days.
- **Re-inspection** Critical and non-critical violations - corrected immediately.
A second or third re-inspection will be scheduled for 24 hours.

What conditions require a re-inspection to be scheduled?

A re-inspection will be scheduled when a routine inspection results in:

- 1 or more critical violations
- 3 or more non critical violations

What conditions require a second re-inspection to be scheduled?

A second re-inspection will be scheduled when a re-inspection results in:

- 1 or more critical violations
- 3 or more non critical violations

If 2 or less non-critical violations, checked at next routine inspection.

What conditions require a third re-inspection to be scheduled?

If violations remain uncorrected during a second re-inspection, a third re-inspection will be scheduled for within 24 hours of the second re-inspection and the establishment will be referred to the Director for administrative action. The Director will schedule a Compliance Conference with the permit holder.

Considerations:

- History - Should the establishment have a history of repeat violation it will be up to the discretion of the inspector to schedule a re-inspection when less than 3 non critical violations occur.
- Violations Corrected During the Inspection – Some violations found during the inspection can be corrected immediately, if the permit holder or person in charge is accompanying the inspector. Immediate correction does not negate the original violation, so it is documented on the inspection report along with the corrective action taken and by whom. Information on the original occurrence of the violation becomes significant if it recurs. During subsequent inspections, recurrence becomes a repeat violation which has additional compliance consequences.
- Requests for Extensions- The permit holder or designee may request additional time to correct violations. All requests are to be submitted in writing to the Director of the Public Health Department. The permit holder should not consider their request approved until they are notified in writing.
- Request for Documentation - Some violations may require follow up status or documentation to be sent to the Public Health Department within 24 hours. Examples are listed below. Failure to submit the documentation will result in a re-inspection.

Refrigeration Repairs

Dish machine/ Water Temperature/Chemical Concentration

Hot Water below 100F

Hand sink not Operating

Consumer Advisory Incomplete or Incorrect

Missing/Incorrect Allergen Statement

PCO Contract/Service Report

Temporary Food Establishments

Correction of Violations- In the case of one day temporary food events, all violations shall be corrected prior to the inspector leaving the site. For multi-day events, all violations shall be corrected within a maximum of 24 hours. If critical violations are not corrected within the time specified, the inspector shall order the establishment to cease food operations immediately.

Enforcement Procedures for Food Establishments – Ipswich Public Health Department

What happens if a food establishment has violations?

A food service operator must correct all violations of the 105 CMR 590.00 during the inspection or by the time allowed in the inspection report. Review **Re-inspection Procedures**.

Failure to correct violations results in progressive enforcement action when violations are not imminent health hazards, but are repeat and/or reoccurring. A food establishment permit holder may be given three (3) opportunities to correct violations before his or her license is limited, suspended or revoked:

- The establishment corrects violations during the routine and/or re-inspection. When the establishment fails to do this, the license holder may be asked to attend a Compliance Conference with the Director.
- The establishment is to correct violations immediately following the Compliance Conference. When the establishment fails to comply, the permit holder is asked to attend a Board of Health hearing.
- The establishment is given another opportunity to immediately correct violations following the Board of Health hearing.

If the establishment fails to comply after the Board of Health hearing; based on the Board's decision, the food establishment license may be limited, suspended, or revoked. The license holder may request a Board of Health Hearing to appeal a license limitation, suspension or revocation if one was not already provided. Parties aggrieved by a final decision of the Board of Health may appeal to a court of competent jurisdiction.

If an imminent health hazard is found, the establishment is ordered closed or certain operations must cease. The operation may reopen only after a re-inspection proves elimination of the hazard. Imminent health hazards include:

- Interruption of water service
- Interruption of electrical service
- Misuse of toxic substances
- Foodborne illness outbreak
- Severe pest infestation
- Sewage back-up
- No hot water
- Fire
- Flood
- Gross unsanitary occurrence or condition
- Other circumstances which may endanger public health

The goal of these policies is to provide procedures so a consistent approach to enforcement is achieved.

It was the decision of the Board supported the Enforcement Procedures and Re-inspection Procedures for Food Establishments as presented.

Director of Public Health Report:

95 North Ridge Road: An inspection was attempted on June 20, 2016 as a result of concerns raised by the Council on Aging Director. At that time the property owner/occupant refused the inspection. The Council on Aging requested the Police do a wellness check of the occupant. On June 21, 2016 the Police did a wellness check and subsequently filed their report with the Health Office on July 5, 2016. Photographs of the interior of the dwelling taken on June 21, 2016 were received on July 12, 2016. A second attempt to inspect was made but no one answered the door. The inspector observed a broken window and an accumulation of debris which validated the pictures forwarded to the office which were taken while the Police did a wellness check. The Inspector spoke with Sheila Taylor from the COA requesting assistance on this matter. Sheila Taylor alerted protective services to help with emergency housing for the occupant, if it is necessary. Based upon the evidence provided by the Police, the Inspector believed an emergency condemnation would need to be issued after the inspection so the owner would have to move out right away. The Inspector pursued an administrative search warrant to access the property and perform a full inspection. An administrative search warrant was issued on Friday, July 15, 2016 and executed on Monday, July 18, 2016. Officer Bodwell accompanied the Inspector. The owner was not present when the inspection occurred. The Inspector issued an emergency condemnation order and an order for correction. The owner or any other occupants cannot occupy the dwelling. Subsequently, the owner did not vacate the dwelling and refused help from Protective Services. As directed by Town Counsel, a hearing was scheduled with the owner for August 8, 2016. The goal of the hearing was to convince the owner to vacate the dwelling voluntarily and to stay out of the dwelling until the 410.750 violations (conditions deemed to endanger) have been corrected and a re-inspection confirmed they have been corrected. At the hearing, the owner agreed to relocate. Towards the end of August Ms. Fermon became aware the owner had reoccupied the dwelling. On August 24, 2016, the Ipswich Fire Department confirmed smoke and carbon monoxide detectors had been installed. On August 27, 2016, the Health Inspector conducted a re-inspection and determined the violations of 410.750 had been corrected, therefore, the condemnation order was rescinded. The remaining violations outlined in the July 18, 2016 Housing Inspection Report still required correction. A re-inspection was conducted on September 23, 2016 and the violations have been corrected.

29 Kimball Avenue: As a result of an occupant's complaint, an inspection was done. Violations were found so an order for correction was issued to the owner. The owner had 30 days to make corrections. A re-inspection was conducted and one violation remained. The owner was given an additional 7 days to address the remaining violation but the owner failed to call for a re-inspection. It was the decision of the Board of Health to file a criminal complaint against the owner for his failure to comply with a Board of Health order. A probable cause hearing at the Northeast Housing Court will be scheduled for October, 2016.

31A Kimball Avenue: As a result of an occupant's complaint, an inspection was done. Violations were found so an order for correction was issued to the owner. The owner requested a hearing to discuss the order for correction; he needed more time to obtain a building permit and the tenants were making it difficult for contractors to get into the unit. It was the decision of the Board to modify the order. The three violations of 105 CMR 410.750 must be corrected by August 10, 2016. All remaining violations of 105 CMR 410.000 must be corrected on or before September 7, 2016. A re-inspection was done on August 16, 2016 and the three violations of 105 CMR 410.750 were substantially corrected. A second re-inspection was completed on September 10, 2016. Violations remain so the owner was granted 14 more days to make corrections. The owner failed to call for a re-inspection so it was the decision of the Board of Health to file a criminal complaint against the owner for his failure to comply with a Board of Health order. A probable cause hearing at the Northeast Housing Court will be scheduled for October, 2016.

Tobacco 21 Campaign: This is a campaign to raise the minimum legal sale age for tobacco products to 21 in Massachusetts cities and towns. The idea is that by increasing the tobacco sale age to 21 will help counter the efforts of the tobacco companies to target young people at a critical time when many move from experimenting with tobacco to regular smoking. Since Ipswich is not currently part of a Tobacco collaboration we do not have any funding to support the initiative at this time. The Board was interested in the initiative but at this time decided to wait for the state to decide.

September Activities Report: Colleen reviewed the following points.

Flu Clinic: The Seasonal Flu (Influenza) Vaccine Clinic will be on Wednesday, October 12th, 2016 from 1pm – 3pm In the Council on Aging Cafeteria. The influenza vaccine is available to individuals over 50 years of age, pregnant women and individuals 19 years of age and older with chronic medical conditions

Septic Betterment Program: The betterment loan for the upgrade of the septic system serving 10 Seaview Road was paid off. This is the fourth loan to be paid back in full. A betterment loan for the upgrade of the septic system serving 1 Jay Road was finalized. This is the thirteenth loan that has been granted since the program commenced in 2012.

Health and Medical Coordinating Coalition: In 2015, six regional Health and Medical Coordinating Coalition (HMCC) have been established to promote cross-disciplinary planning and support public health and medical response across the Commonwealth during emergencies and disasters. Ipswich is part of HMCC Region 3.

Each HMCC is supported by a sponsoring organization with dedicated staffing whose objective is to ensure integrated planning and capacity-building across five core disciplines: acute care hospitals, community health centers and large ambulatory care organizations, emergency medical services, local public health, and long term care. The HMCC will work closely with other health and medical partners, and build strong connections with emergency management and public safety/first responder organizations within the region, as well as other public and private organizations with a role under Emergency Support Function 8, public health and medical services.

Ms. Fermon attends HMCC Region 3 meetings and trainings, whenever possible. To date, HMCC Region 3 has established a governing body and principles of operation. A coordination plan has been drafted.

Mosquito Control: Northeast Massachusetts Mosquito Control and Wetlands Management District (NEMMC) surveillance program is based primarily on collecting mosquito population and diversity data from at least one historical trapping station (HTS) at each member municipality. The same fixed location is used each year for each station and each station has two different surveillance traps. New Jersey traps are placed in the same locations each year and are used to sample the general adult mosquito population. The trap collections allow the District to determine the dominant human biting mosquitoes, potential disease vectors, and population densities of local mosquitoes. Gravid traps are designed to collect recently blood fed adult female Culex mosquitoes and other container breeding species relevant to WNV transmission.

NEMMC does two collections per week from all the traps. When necessary, additional traps are set when vector species are assumed to be in greater abundance and dispersal and/or when presence of viruses may be suspected. All collected mosquitoes are identified and tallied and key species are selected to be tested to determine if they are carrying WNV and EEEV. The mosquito pools are submitted to the state lab on Thursdays and results will be available on Friday afternoons. Mosquito trapping and testing began June 15th and will end October 7, 2016.

The Massachusetts Department of Public Health announced the sixth human case of West Nile virus (WNV) in the state this year. In 2015, there were ten human cases of WNV infection identified in Massachusetts. There have been no cases of WNV in Ipswich in 2016. Four EEE positive mosquito samples have been found in 2016. There have been no human cases of EEE in 2016.

Evening temperatures have begun to decline across the state but mosquitoes will continue to circulate until the first hard frost. This date is estimated to be on or near October 7, 2016.

Next Board Meetings: The next meetings of the Board of Health were scheduled for October 24, 2016, December 5, 2016, January 9, 2017 and February 6, 2017 at 5:30 PM.

Adjourn: Susan Hubbard made the motion to adjourn at 6:35 PM. Margaret McDermott seconded the motion. The motion to adjourn passed unanimously.

Documents used at the October 3, 2016 Board of Health meeting:

- April 15, 2016 and May 28, 2016 inspection reports and orders for 8 Charlotte Road.
- June 6, 2016 Board of Health Minutes.
- Septic System Design Plans and Variance Requests for 78 Little Neck Road.
- 28 Mill Road soil testing results.
- Board of Health Septic System Regulations.
- Enforcement Procedures and Re-inspection Procedures for Food Establishments.
- September Activities Report

Susan C. Hubbard, Chairperson

Margaret McDermott, Board Member

Dr. Susan Boreri, Board Member