

Board of Health Minutes
Monday, January 22, 2018 5:30 PM
Meeting Room C, Town Hall
25 Green Street, Ipswich, MA

Call to Order: Susan Hubbard called the meeting to order at 5:31 PM.

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

Others in attendance: Director of Public Health; Colleen Fermon, Jennifer Brown, Administrative Assistant, Hugh L. Graham, P.E., Chris Sparages, P.E., Sharon Fuller, Shawn Curran, Thomas Mannetta, P.E., Terry Anderson and Judy Bartlett.

Citizens Queries: None.

Minutes: Susan Hubbard made a motion to approve the December 4, 2017 minutes. Dr. Susan Boreri seconded the motion. The motion passed unanimously.

Hearings:

5:32 - Gertrude Bartlett – 24 Dartmouth Road – Represented by H.L. Graham Associates, Inc. – Tight Tank Design Variances

Hugh L. Graham, P.E., presented, and a hearing was conducted to consider the approval of a tight tank plan # 15-1512 designed by Gerard McDonald, P.E., dated August 17, 2015 and last revised December 20, 2017 for 24 Dartmouth Road.

Susan Hubbard asked if the abutters had been notified. Mr. Graham provided a certified green cards as proof of notification to the Board.

Colleen Fermon noted that a tight tank design was previously approved on September 14, 2015. Subsequently, the property transferred on May 16, 2016 and the tight tank plan was redesigned to meet the needs of the new owner.

Mr. Graham explained that the tight tank plan was revised since new owner intends to demolish and rebuild the dwelling. The new dwelling has a different shape and larger footprint moving the proposed building too close to the tight tank. Mr. Graham requested the following variances:

- To allow a reduction in the 10 foot separation between the tight tank and the property line. A 5 foot setback is provided.
- To allow the tight tank to be located within the 150 foot buffer zone of the ACEC. A 15 foot setback is provided.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon noted that this is a difficult site. She recommended approving the plan with the following conditions:

1. A 2 year operation and maintenance contract must be submitted to the Public Health Office prior to issuance of the Disposal System Construction Permit.
2. The Board of Health approval letter must be recorded at the Southern Essex County Registry of Deeds, and a recorded copy submitted to the Public Health Office prior to issuance of the Disposal System Construction Permit.
3. Conservation Commission approval must be obtained prior to issuance of the Disposal System Construction Permit.

4. 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.

Dr. Boreri made a motion to approve the tight tank design and grant the variances as requested with the conditions of approval as outlined by Colleen Fermon. Margaret McDermott seconded the motion. The motion passed unanimously.

5:37 - Shawn Curran – 49 Turnpike Road – Represented by Thomas Mannelta, Inc. – Variance to Allow Soil Testing for New Construction Outside the Season

Thomas Mannelta P.E., and Shawn Curran requested a variance from 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.

Colleen Fermon noted that previously 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 1, 2003 until December 31, 2018 so that Mr. Curran could develop the property.

Susan Hubbard explained that to obtain a variance to Title 5, the applicant must prove that the strict enforcement of the provision of the Code for which the variance is being sought would result in manifest injustice and that the same degree of environmental protection required under the code can be achieved without strict application of the particular provision. For new construction, the applicant must prove that enforcement of the provision would deprive the owner of substantially all beneficial use of the property in order to be considered manifestly unjust.

Thomas Mannelta, P.E., explained that the steep topography of the lot and the wetland buffer zone resulted in the building being located in the area of the testpits. The plan was redesigned to best limit the environmental impacts by reducing the building footprint and moving the proposed building closer to the street. Unfortunately, the soil testing is not located where the proposed system is planned so additional testing is required. The site plan is being reviewed by the Planning Board currently. Mr. Mannelta requested a variance to conduct soil testing outside the new construction testing season since the owner is relocating his business to this site and he would like to begin construction as soon as possible to minimize any business disruption.

The Board reviewed the proposed building and testing site.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon had no concerns with testing out of season if the Board feels manifest injustice has been established.

Susan Hubbard made a motion to grant a variance to allow soil testing to be conducted outside the new construction testing season. Margaret McDermott seconded the motion. The motion passed unanimously.

5:44 - 61 Turnpike Road LLC – 61 Turnpike Road – Represented by Thomas Mannelta – Noncompliance with Order for Title 5 Inspection or Enforceable Agreement to Upgrade the Septic System

Colleen Fermon provided background information for the Board. In letters dated August 14, 2014 and August 7, 2015, 61 Turnpike Road LLC was informed that the transfer of title for 61 Turnpike Road on June 18, 2014 was done without benefit of a Title 5 Inspection. The owner was ordered to have a Title V inspection done within 30 days of receipt of the notice *or* enter into an enforceable agreement with the Board of Health within 30 days of receipt of the notice to upgrade the septic system. No action was been taken so the owner was asked to appear before the Board of Health to discuss his intentions for this property.

At the meeting, Mr. Manna explained that he has put the property on the market to be sold but he has been unable to sell the property since potential buyers are requesting a demolition permit to be tied in with the sale. Additionally, the Historic Commission has placed a one year delay on the demolition of the dwelling. Mr. Manna intends to apply for a demolition permit and abandon the septic system in conjunction with seeking demolition approval.

Susan Hubbard made a motion to order Mr. Manna to abandon the septic system on or before March 23, 2018. Failure to comply may result in a criminal complaint being filed against him for failing to comply with a Board of Health order. Margaret McDermott seconded the motion. The motion passed unanimously.

5:48 - Sharon Fuller – 40 Chattanooga Road – Variance to Extend Soil Testing Results

Chris Sparages, P.E., and Sharon Fuller, presented, and 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 16, 2000, June 27, 2000, and June 7, 2005.

Colleen Fermon explained that previously, a subsurface sewage system was approved on September 15, 2008 but the disposal system construction permit (DSCP) and associated soil test results expired on September 15, 2015 before the system was installed. On March 5, 2016, the Board of Health approved the modifications to the single lot definitive subdivision plan.

At the meeting Ms. Fuller noted that this is an undeveloped property that is on the market and she has a buyer but the sale of the property is contingent on the extension of the soil testing results. She requested a variance for the validity of the testing results through January 8, 2019 so they could be utilized for a new design. Chris Sparages and Sharon Fuller stated there have been no changes to the site since the June 7, 2005 soil testing was conducted.

Ms. Fuller said if the variance did not get granted it will delay the sale for months since to test they would have to wait until after the spring due to high groundwater. There would be high costs associated with the delay.

Susan Hubbard made a motion to grant a variance and extend the use of the soil testing results conducted on March 16, 2000, June 27, 2000, and June 7, 2005 until December 31, 2018. Dr. Boreri seconded the motion. The motion passed unanimously.

The prospective buyer approached the Board. He questioned if the validity of the soil testing could be extended for three (3) years so that he could finalize the development plans which include a new road to serve the lot. He wants to do the road and septic system concurrently. The Board denied the request.

Colleen Fermon explained that once the plan is approved and the Disposal System Construction Permit has been issued, in accordance with the State Environmental Code Title 5, section 15.020(2), the prospective buyer has three (3) years to install the system.

5:57 - Carey B. McDonald – 71 Skytop Road – Noncompliance with Order to Upgrade Septic System

Neither Mr. McDonald nor a representative attended the meeting. The septic system serving 71 Skytop Road failed a Title 5 Inspection on April 13, 2015. At the meeting of the Board of Health on June 5, 2017, it was the decision of the Board to grant an extension for the upgrade of the system; the system was to be installed with the Certificate of Compliance issued by December 15, 2017.

Susan Hubbard made a motion to require Mr. McDonald or a representative attend the Ipswich Board of Health meeting on Monday, February 12, 2018 to discuss a timeframe for bringing the property into compliance. Failure to attend the meeting may result in a criminal complaint being filed against the owner in court for failure to comply with a Board of Health Order to upgrade the septic system. Dr. Boreri seconded the motion. The motion passed unanimously.

6:00 - David J. Swain Trust – 31 Turnpike Road – Noncompliance with order to Upgrade Septic System

Neither Mr. Swain nor a representative attended the meeting.

Colleen Fermon said both David Swain and Joseph McCarthy both spoke to her and said that Mr. McCarthy would handle the repairs by using Chuck Hulbert, septic system installer. In letters dated October 6, 2016, and December 13, 2016, Mr. Swain was ordered to have an Ipswich licensed Septic Installer replace the distribution box and pipe and install an outlet tee within 60 days of receipt of the notice.

Previously, at the January, 9, 2017 Board of Health meeting it was the decision of the Board to grant an extension until April 15, 2017 to bring the property into compliance.

The septic system repair did not occur so Mr. Swain's presence was requested at the May 15, 2017 Board of Health meeting since he is in violation of Title 5 and a Board of Health order. At the May 15, 2017 meeting Mr. Swain attested that the repairs to the septic system have not been made for financial reasons. It was the decision of the Board to grant an extension until December 15, 2017 for the repairs to the septic system.

Susan Hubbard made a motion to grant one (1) week to make repairs. If repairs are not completed by January 29, 2018, the Board of Health will file a criminal complaint against Mr. Swain in court for failure to comply with a Board of Health order. Dr. Boreri seconded the motion. The motion passed unanimously.

6:05 - Robert Bonsignore – 32 North Ridge Road – Noncompliance with Septic System Upgrade Deadline

Neither Mr. Bonsignore nor a representative attended the meeting.

Colleen Fermon provided background information for the Board. On October 8, 2014, Mr. Bonsignore signed an agreement to upgrade the septic system at 32 North Ridge Road by October 8, 2016 in lieu of having a Title 5 inspection done. On January 12, 2015, the Board approved a tight tank plan to serve the 3 bedroom dwelling located at 32 North Ridge Road, Ipswich, Massachusetts.

At the July 18, 2016 meeting, Mr. Bonsignore's representative, Hugh L. Graham of H.L. Graham Associates, Inc., requested an extension until December 31, 2018 for the installation of the tight tank. Mr. Graham said that Mr. Bonsignore had hired an architect and he intended to raze and rebuild the existing dwelling prior to the installation of the tight tank. It was the decision of the Board to grant Mr. Bonsignore an extension for the upgrade; the tight tank was to be installed with the Certificate of Compliance issued by October 8, 2017. As of this date, the tight tank has not been installed and the dwelling has not been demolished.

In a letter dated, November 15, 2017, Mr. Bonsignore was notified that he is in violation of Title 5 and he was requested to appear at the December 4, 2017 Board of Health meeting to discuss a timeframe for bringing the property into compliance. Mr. Bonsignore did not attend the meeting. At the December 4, 2017 meeting, the Board discussed Mr. Bonsignore's noncompliance with the July 18, 2016 Board of Health order and required Mr. Bonsignore or a representative attend the Ipswich Board of Health meeting on January 22, 2018 to discuss a timeframe for bringing the property into compliance. Again, no one attended the meeting.

Susan Hubbard made a motion that the system must be abandoned within 60 days; by March 23, 2018. Failure to abandon the septic system will result in a criminal complaint being filed against Mr. Bonsignore in court for failure to comply with a Board of Health order. Margaret McDermott seconded the motion. The motion passed unanimously.

6:12 - Federal National Mortgage Association – 56 Country Club Way – Noncompliance with Order To Correct Violations of Chapter II of the State Sanitary Code

No one attended the meeting.

Colleen Fermon provided background information for the Board. A housing inspection was conducted on September 5, 2017, at 56 Country Club Way, Ipswich in accordance with 105 CMR 410.000: State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation. Violations were found and an order to correct was issued on September 5, 2017. Federal National Mortgage Association was ordered to substantially correct the violations within 30 days. A re-inspection was conducted on November 24, 2017 and none of the corrections had been completed.

Federal National Mortgage Association was requested to appear at the January 22, 2018 Board of Health meeting to discuss a failure to comply with a Board of Health order.

Susan Hubbard made a motion to use the abandoned housing initiative with the Attorney General's Office. Dr. Boreri seconded the motion. The motion passed unanimously.

6:21 - Director of Public Health Report:

Next Board Meetings: The next meetings of the Board of Health were scheduled for February 12, 2018, March 12, 2018 and April 2, 2018, May 7, 2018 and June 4, 2018 at 5:30 PM.

Adjourn: Susan Hubbard made the motion to adjourn at 6:40 PM. Susan Boreri seconded the motion. The motion to adjourn passed unanimously.

Documents used at the January 22, 2018 Board of Health meeting:

- December 4, 2017 Board of Health Minutes.
- Ipswich Board of Health Septic System Regulation.
- June 6, 2017 Order to Upgrade letter from Colleen Fermon for 71 Skytop Road.
- June 20, 2017 Sewage Disposal System and Retaining Wall Plan approval letters for 71 Skytop Road from Colleen Fermon.
- May 17, 2017 Order to Upgrade Letter from Colleen Fermon for 31 Turnpike Road.
- November 2, 2017 Order to Upgrade Letter from Colleen Fermon for 79 Labor-In-Vain Road.
- July 25, 2016 Notice of Variance and December 21, 2016 Tight Tank approval letters from Colleen Fermon for 32 North Ridge Road.
- Septic System Design Plans for 24 Dartmouth Road.
- December 22, 2017 letter from Thomas Manna, P.E., for 49 Turnpike Road.
- August 14, 2014 and August 7, 2015 letters from Colleen Fermon for 61 Turnpike Road.
- December 27, 2017 email from Sharon Fuller regarding 40 Chattanooga Road.
- December 18, 2017 letter from Colleen Fermon for 56 Country Club Way.
- September 5, 2017 and November 24, 2017 inspection reports for 56 Country Club Way.
- 105 CMR 410.00: State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation.

Susan C. Hubbard, Chairperson

Dr. Susan Boreri, Board Member

Margaret McDermott, Board Member