

Board of Health Minutes
Monday, February 12, 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, James Scanlan, P.E., Patrick Pierce, Paul Banville, John Morris and Scott Audette.

Citizens Queries: None.

Minutes: Susan Hubbard made a motion to approve the December 4, 2017 minutes with one change on page 5 under 6:12 PM.; remove McDermott on the bottom line. Dr. Susan Boreri seconded the motion. The motion passed unanimously.

Hearings:

5:32 - Patrick Pierce – 25 Bunker Hill Road – Represented by Scanlan Engineering, LLC. – Septic System Design Variances

James Scanlan, P.E., and Patrick Pierce presented, and a hearing was conducted to consider variances from Title 5 for a sewage disposal system plan # 0855 designed by James Scanlan, P.E., dated January 11, 2018 and last revised January 26, 2018 for the 2 bedroom dwelling located at 25 Bunker Hill Road, Ipswich, Massachusetts.

Mr. Scanlan noted that this lot is impacted by its limited size and the presence of wetlands in the rear of the property. He proposed the use of a Presby Enviro-septic system for the upgrade and requested the following variances:

- 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 the use of a sieve analysis in lieu of a percolation test.
- To allow a reduction in the 100 foot setback between the SAS and the coastal bank. A 70 foot setback is provided.

Mr. Scanlan explained that strict enforcement of the provision of Title 5 for which the variances are being sought would be manifestly unjust and that a level of environmental protection that is at least equivalent to that provided under the Code can be achieved without strict application of the particular provisions from which waivers are being sought.

The Board reviewed the sewage disposal system plan.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon said this was a difficult site due to the limited space for a sewage disposal system because of wetlands. She recommended granting the variances as requested with the following conditions:

- A 2 bedroom deed restriction for the Presby Enviro-septic system 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.

- A Notice of Alternative Disposal for the Presby Enviro-septic system must be filed at the Southern Essex County Registry of Deeds with a recorded copy provided to the Public Health Department prior to the issuance of the Disposal System Construction Permit. A sample Notice of Alternative Disposal can be found on the Massachusetts Department of Environmental Protection's website <http://www.mass.gov/dep>
- Conservation Commission Approval must be obtained prior to the issuance of the Disposal System Construction Permit.
- 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, Installer must provide a bill of lading certifying the sand meets ASTM C-33.
- Prior to the issuance of a Certificate of Compliance, Installer must provide a completed "System Installation Form" to the 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.
- The system must be upgraded by August 23, 2019.

Susan Hubbard made a motion to approve the plan and grant the variances as requested with the conditions as enumerated by Colleen Fermon. Margaret McDermott seconded the motion. The motion passed unanimously.

5:37 - Carey B. McDonald – 71 Skytop Road – Noncompliance with Order to Upgrade Septic System

Neither Mr. McDonald nor a representative attended the meeting. Colleen Fermon provided background information for the Board. The septic system serving 71 Skytop Road failed a Title 5 Inspection on April 13, 2015. 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 April 13, 2017.

Mr. McDonald purchased the property on September 23, 2015 so it is his responsibility to upgrade the failed septic system. In a May 1, 2017 letter he was notified that he was in violation of Title 5 and a Board of Health order and he was requested to attend the May 15, 2017 Board of Health meeting.

On May 15, 2017, Robert McCarthy contacted the Public Health office and explained he was handling the septic system installation but was unavailable to attend the May 15, 2017 meeting.

At the meeting of the Board of Health on June 5, 2017, Mr. McDonald's representative, Mr. McCarthy, requested an extension for the upgrade of the septic system and discussed a timeframe for bringing the property into compliance. At the meeting it was noted that the septic upgrade design plan was approved on May 31, 2016. Mr. McCarthy explained that he thought the deadline for the installation of the septic system was 2 years from the plan approval date; by May 31, 2018. He planned to have the system installed in 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.

In a letter dated November 27, 2017, Mr. McDonald was reminded that if the system was not installed with the Certificate of Compliance issued by December 15, 2017 he would be in violation of a Board of Health order and Title 5. Mr. McDonald was asked to contact Colleen Fermon. Ms. Fermon was not contacted so the Board of Health required him or a representative to attend the Ipswich Board of Health meeting on January 22, 2018 to discuss a timeframe for bringing the property into compliance. No one attended the meeting so a second meeting was scheduled for February.

Ms. Fermon noted that the Disposal System Construction Permit (DSCP) was recently issued to the Installer but a timeframe for the installation was not provided since no one attended the meeting.

Susan Hubbard asked if anyone was occupying the dwelling. Ms. Fermon confirmed that the dwelling is occupied but the water usage between September 30, 2015 and January 1, 2018 has been minimal. She recommended a deadline of May 15, 2018 for the installation of the upgraded system.

Susan Hubbard made a motion that the septic system must be installed by May 15, 2018. If the system is not installed on or before May 15, 2018, the dwelling may be deemed unfit for human habitation and an order of condemnation may be issued since the dwelling was being served by a failed septic system that had not been upgraded within the prescribed timeframe. The condemnation order would require all occupants to vacate and secure the dwelling. If condemned, the dwelling unit shall not be occupied without the prior written permission of the Board of Health. Dr. Boreri seconded the motion. The Motion passed unanimously.

5:44 - Willowdale Circle, LLC – 6 Willowdale Circle – Represented by Scott Audette – Septic System Installation Season Variance

Scott Audette presented, and a request for a variance to Ipswich Board of Health Septic System Regulations 3.10 was heard. In accordance with Board of Health Septic System Regulations 3.10; Septic systems shall not be installed between December 15 and March 15. Construction of systems that commenced prior to December 15 shall be allowed to be completed. The Disposal System Construction Permit (DSCP) for 6 Willowdale Circle was not issued prior to December 15, 2017.

At the meeting Colleen Fermon explained that Willowdale Circle is a condominium subdivision with some shared septic system components and some components that are on the individual lots. The shared septic tank, pump chamber and leaching area have already been installed. Mr. Audette requested permission to install the building sewer for 6 Willowdale Circle prior to March 16th. Mr. Audette explained that the building sewer will connect into system piping that was previously installed.

Susan Hubbard clarified 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. 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.

Mr. Audette said the weather has put him months behind schedule so he was requesting permission to install the building sewer outside the construction season since the property is under agreement and the new owner needs to relocate by the end of the month.

Susan Hubbard made a motion to grant a variance to allow the installation of the building sewer before March 16, 2018. Margaret McDermott seconded the motion. The motion passed unanimously.

Willowdale Circle, LLC – 8 Willowdale Circle – Represented by Scott Audette – Septic System Installation Season Variance

Scott Audette presented, and a request for a variance to Ipswich Board of Health Septic System Regulations 3.10 was heard. In accordance with Board of Health Septic System Regulations 3.10; Septic systems shall not be installed between December 15 and March 15. Construction of systems that commenced prior to December 15 shall be allowed to be completed. The Disposal System Construction Permit (DSCP) for 6 Willowdale Circle was not issued prior to December 15, 2017.

At the meeting Colleen Fermon explained that Willowdale Circle is a condominium subdivision with some shared septic system components and some components that are on the individual lots. The shared septic tank, pump chamber and leaching area have already been installed. Mr. Audette requested permission to install the building sewer for 6 Willowdale Circle prior to March 16th. Mr. Audette explained that the building sewer will connect into system piping that was previously installed.

Susan Hubbard clarified 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. 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.

Mr. Audette said the weather has put him months behind schedule so he was requesting permission to install the building sewer outside the construction season since the property is under agreement and the new owner needs to relocate by the end of the month.

Susan Hubbard made a motion to grant a variance to allow the installation of the building sewer before March 16, 2018. Margaret McDermott seconded the motion. The motion passed unanimously.

5:48 - Richard Banville Trust – 21 North Main Street, Unit 4 – Represented by Paul Banville – Order for Correction of Housing Violations.

Colleen Fermon provided background information for the Board. As a result of a complaint received by this office, a housing inspection was conducted on December 16, 2017, at 21 North Main Street, Unit #4, 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 December 16, 2017. Mr. Banville was ordered to bring the dwelling into compliance with the State Sanitary Code 105 CMR 410.000 within 30 days. A re-inspection was conducted on January 23, 2018 and some violations remained.

On January 24, 2018 Mr. Banville requested a hearing before the Board of Health to seek more time to make corrections.

The Board reviewed the remaining violations which include violations of 105 CMR 410.500. John Morris, Ipswich Housing Inspector, explained that the ceiling in the front room is in disrepair and has water damage. The windows in the living room are not weather tight, the window in the bathroom does not function and the ceiling in the bathroom is moldy. Additionally, the floor in the front den is sagging. Susan Hubbard questioned why the violations remained.

At the meeting, Mr. Banville attested that he has worked to correct the violations but he needed additional time to make the corrections which are extensive. Mr. Banville provided the Board with a quote from Georgetown Door and Window Co., Inc. for new windows but they will not be ready to install for a few weeks. Additionally, he provided a contract from John Pettis, who will install the windows and repair the roof. He is available to start the repairs beginning February 19, 2018, depending on the weather.

Mr. Morris stated that the roof needs to be repaired first to stop water damage, then the ceiling and the floors can be addressed.

Susan Hubbard made a motion to grant Mr. Banville until March 31, 2018, to obtain compliance with 105 CMR 410.000. Failure to correct all violations by March 31, 2017 may result in a criminal complaint being filed against him in court for failure to comply with a Board of Health order. Dr. Boreri seconded the motion. The motion passed unanimously.

The Board noted that once the corrections have been made Mr. Banville must contact the Public Health Office and request an inspection so he may obtain a letter of compliance. A \$75.00 fee is assessed for each re-inspection.

6:00 - 2018 Best Management Practice Plan for Mosquito Control

The Board reviewed the 2018 Best Management Practice Plan for Ipswich and the District's Vector Management Plan. Each year the control measures in Ipswich's BMP include ground and aerial salt marsh larviciding, catch basin treatment, inspections and adulticiding.

The Board of Health approved the Best Management Practice Plan as written with the exception of the typo on Page 4 stating Andover as the subject town.

Ms. Fermon said residents who request their property to be excluded from all pesticide applications must request an exclusion through the Massachusetts Department of Agricultural Resources.

6:01 - Director of Public Health Report:

Polished: Polished is a preventative Dental Care Program that the Public Health Department has each year. The program provides free dental screenings, cleanings, sealants, and fluoride for children. Adults can also receive screenings and cleanings for \$49.00. This year the program will be on April 5, 2018.

Substance Abuse: Ipswich Aware will sponsor a community focus group at the YMCA on March 6th to discuss and provide feedback on what the issues are facing our community around substance abuse.

8 Locust Road: Ms. Fermon provided background information for the Board. As a result of a complaint received by this office, a housing inspection was conducted on October 26, 2017, at 8 Locust Road, 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 October 26, 2017. The owners were ordered to bring the dwelling into compliance with the State Sanitary Code 105 CMR 410.000 within 30 days.

On November 27, 2017 the owner requested a hearing before the Board of Health to discuss the order to correct issued on October 26, 2017. At the December 4, 2017 meeting the owner attested that she has worked to correct the violations but she needed additional time to make the corrections which are extensive. It was the decision of the Board of Health to grant the owner until January 31, 2018, to obtain compliance with 105 CMR 410.000. A re-inspection was conducted on February 8, 2018 and some of the violations remained.

Colleen Fermon felt an extension until May 1, 2018 to obtain compliance with 105 CMR 410.000 should be given since the owner demonstrated a good faith effort in making corrections.

Next Board Meetings: The next meetings of the Board of Health were scheduled for January 8, 2018, February 5, 2018, March 12, 2018, April 9, 2018, May 7, 2018, June 4, 2018, and July 16, 2018 at 5:30 PM.

Adjourn: Susan Hubbard made the motion to adjourn at 6:30 PM. Susan Boreri seconded the motion. The motion to adjourn passed unanimously.

Documents used at the February 12, 2018 Board of Health meeting:

- January 22, 2018 Board of Health Minutes.
- Septic System Design Plans for 25 Bunker Hill Road.
- Septic System Design Plans for 71 Skytop Road.
- June 6, 2017 Board of Health decision letter from Colleen Fermon regarding 6 and 8 Willowdale Circle Septic System Design Plan.
- December 16, 2017 Housing Inspection Report and Order of Correction for 21 North Main Street.
- January 23, 2018 Housing Re-inspection Report for 21 North Main Street.
- Chapter II of the State Sanitary Code.

Susan C. Hubbard, Chairperson

Dr. Susan Boreri, Board Member

Margaret McDermott, Board Member