

Board of Health Minutes
Monday, May 7, 2018 5:30 PM
Meeting Room C, Town Hall
25 Green Street, Ipswich, MA

Call to Order: Susan C. Hubbard called the meeting to order at 5:32 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, Larry Graham, P.E. John Judd, P.E., Derrick Aubin, Robert McCarthy, Jennifer Gallant and Daniel Gallant.

Citizens Queries: None.

Minutes: Dr. Susan Boreri made a motion to approve the April 2, 2018 minutes. Margaret McDermott seconded the motion. The motion passed unanimously.

Hearings:

5:33 - Derrick Aubin – 22 Sagamore Road – Order for Correction – Violations of Chapter II of the State Sanitary Code

Colleen Fermon provided background information for the Board. As a result of a complaint received on March 26, 2018, a housing inspection was conducted on March 28, 2018, at 22 Sagamore 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 March 28, 2018. Mr. Aubin was ordered to bring the dwelling into compliance with the State Sanitary Code 105 CMR 410.000 within 30 days. On April 4, 2018 Mr. Aubin requested a hearing before the Board of Health to seek more time to make corrections.

At the meeting, Mr. Aubin attested that he has completed many of the necessary repairs. Ms. Fermon noted that Mr. Aubin submitted a contract on April 6, 2018 which documented that Royal Painting and Building was contracted to repair the front stairs, siding, columns and other exterior dwelling issues. Mr. Aubin said the front stairs and columns were repaired. Additionally, he registered the vehicle sited on the property.

Susan Hubbard asked Mr. Aubin how much time he would need to complete the repairs. Mr. Aubin felt he would have the remainder of the repairs completed within 30 days.

Susan Hubbard made a motion to sustain the order and grant Mr. Aubin until June 7, 2018 to obtain compliance with 105 CMR 410.000. Once the corrections have been made Mr. Aubin must contact the Public Health Office and request an inspection so he may obtain a letter of compliance. Dr. Boreri seconded the motion. The motion passed unanimously.

The Board noted that failure to correct all violations by June 7, 2018 may result in a criminal complaint being filed against Mr. Aubin in court for failure to comply with a Board of Health order.

5:38 - Anchor Inn Trust – 5 Bayview Road – Represented by H.L. Graham Associates, Inc.– Septic System Design Variances

Larry Graham, P.E., 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# 18-1806 designed by Gerard McDonald, P.E., dated April 4, 2018 and last revised April 18, 2018 for the 4 bedroom dwelling.

Susan Hubbard asked if the abutter at 3 Bayview Road had been notified. Mr. Graham provided certified green card as proof of notification to the Board.

This is a voluntary upgrade of the 4 bedroom dwelling. Mr. Graham proposed a Presby Enviro Septic System for the upgrade since it allows a 40% reduction in the size of the leaching area. He requested the following:

- A reduction in the setback between the leach field and the coastal bank. A 30 foot setback is provided.
- A reduction in the setback between the cellar wall and the leach field. A 10 foot setback is provided.
- A reduction in the separation between the lot line and the leach field. A 5 foot setback is provided.
- A reduction in the 100 foot setback between the leach field and the coastal bank. A 30 foot setback is provided.
- A reduction of the design flow from 150 gallons/bedroom/day to 110 gallons/bedroom/day.
- A reduction in the 150 foot setback between the septic system and the Area of Critical Environmental Concern (ACEC). The closest component, the leach field, is 30 feet from the ACEC.
- To allow the use of NVGD 1929 vertical datum in lieu of NAVD 1988 for coastal properties. Previous plans filed for this property were based on NGVD 1929.

The Board reviewed the disposal system construction plan and considered the variance requests. Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon recommended approving the plan and granting the requests with the following conditions:

- Prior to issuance of 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 Installer's Presby certification must be submitted to the Public Health Office.
- Prior to issuance of Disposal System Construction Permit and after recording a 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. The Notice is the DEP document titled. 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>.
- Conservation Commission Approval must be obtained prior to the issuance of the Disposal System Construction Permit.
- A survey of the property line between 3 and 5 Bayview Road must be done 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 installed with the Certificate of Compliance issued by May 7, 2020.

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

5:45 - Barbara A. Russell Revocable Trust – 15 Quay Road – Represented by H.L. Graham, Associates, Inc.– Septic System Design Variances

Larry Graham, P.E., presented, and a hearing was conducted to consider variances from Title 5 and Ipswich Board of Health Septic System Regulations and Alternative Technology Waivers for a sewage disposal system plan # 17-1727 designed by Gerard McDonald, P.E., dated February 8, 2018 and last revised March 28, 2018 for the 3 bedroom dwelling located at 15 Quay Road, Ipswich, Massachusetts.

Susan Hubbard asked if the abutters had been notified. Mr. Graham said he did not receive the certified green card back. He provided the postal receipt, a copy of the letter sent to the abutter and an email from the abutter stating they had no objections to the proposed sewage disposal system plan as proof of notification to the Board.

The system failed a Title 5 inspection on December 1, 2017 due to it intercepting groundwater. Mr. Graham proposed a Perc Rite Drip Dispersal System and a Waterloo Biofilter for the upgrade design and requested the following:

- A reduction of the 4 feet of pervious soil in the leach area. Testpits 2 and 3 have 28 inches and 38 inches, respectively, of permeable soil.
- A 2 foot reduction in the separation between the bottom of the leaching area and estimated seasonal high groundwater (ESHGW). A 3 foot separation is provided.
- A reduction in the setback between the leach field and the property line. A 5 foot setback is provided.
- A reduction in the setback between the leach field and the drain. A 2.5 foot setback is provided.
- A reduction in the 100 foot setback between the leach field and the coastal bank. A 50 foot setback is provided.
- A reduction in the setback between the septic system and the Area of Critical Environmental Concern (ACEC). The closest component, the septic tank, is 91 feet from the ACEC.
- A reduction of the design flow from 150 gallons/bedroom/day to 110 gallons/bedroom/day.
- To allow the use of NGVD 1929 vertical datum in lieu of NAVD 1988 for coastal properties. Previous plans filed for this property were based on NGVD 1929.

Mr. Graham noted that the Conservation Commission already issued an Order of Conditions (OCC). Additionally, the owner has contracted with D.F. Clark, Inc. to install the proposed system.

The Board reviewed the sewage disposal system plan and the variance requests. Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon said there are a lot of site restraints. She recommended approving the plan and granting the requests with the following conditions:

- A 2 year Operations and Maintenance contract must be submitted to the Public Health Office for the Perc Rite Drip Dispersal System and the Waterloo Biofilter prior to issuance of Disposal System Construction Permit.

- A Notice of Alternative Disposal must be filed at the Southern Essex County Registry of Deeds with a recorded copy provided to the Public Health Office prior to the issuance of the Disposal System Construction Permit. A sample Notice of Alternative Disposal can be found at <http://www.mass.gov/dep>.
- A clean water test done with Perc Rite representative and Director of Public Health to verify system design flush and dose rates; and to confirm the absence of leaks.
- The Installer must be trained in the installation of Perc Rite and provide a copy of the Perc Rite certification to the Public Health Office prior to issuance of Disposal System Construction Permit.
- Conservation Commission Approval must be obtained prior to the issuance of the Disposal System Construction Permit.
- The property lines abutting Old Squaw Road must be surveyed and staked 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.
- The system must be installed with the Certificate of Compliance issued by December 1, 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.

5:55 - Carey B. McDonald – 71 Skytop Road – Represented by Gateway Consultants, Inc. – Septic System Upgrade Deadline and Possible Condemnation of Dwelling

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. Carey purchased the property on September 23, 2015 so it is his responsibility to upgrade the failed septic system. In a May 1, 2017 letter the owner was notified that he was in violation of Title 5 and a Board of Health order and the owner 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 June 16, 2016. Mr. McCarthy explained that he thought the deadline for the installation of the septic system was 2 years from the plan approval date. He planned to have the system installed in 2017. It was the decision of the Board to grant the owner 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 Ms. Fermon. Ms. Fermon was not contacted so the Board of Health required Mr. McDonald or a representative to attend the Ipswich Board of Health meeting on January 22, 2018 to discuss a timeframe for bringing his property into compliance. No one attended the meeting so a second meeting was scheduled for February.

At the meeting of the Board of Health on February 12, 2018, it was noted that the Disposal System Construction Permit (DSCP) was issued to the Installer but a timeframe for the installation was not provided since no one attended the meeting. It was the decision of the Board that the septic system must be installed by May 15, 2018.

If the system was not installed on or before May 15, 2018, Mr. McDonald was informed that 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.

On April 26, 2018 the Public Health office was informed that it is Mr. McDonald's intention to do additional soil testing in a new location for the purpose of a new septic design that would be more financially feasible. Since Mr. McDonald would not have the system installed by May 15, 2018, a hearing with the Board of Health was scheduled to discuss the property and a possible condemnation order.

At the May 7, 2018 meeting the owner's representative, Robert McCarthy, said it has taken Mr. McDonald a year to hire an Installer who is willing to install the approved system design. Mr. McDonald hired John Duncan but Mr. Duncan cannot install the approved system since he cannot safely get a machine to the leaching field due to a 30 foot slope from the street.

Susan Hubbard asked Mr. McCarthy how many people reside in the dwelling. Mr. McCarthy said that currently only one person resides in the dwelling. Ms. Fermon confirmed that the water usage has been minimal.

Ms. Fermon questioned why there was a delay in changing the system design when the sewage disposal plan was approved in 2016. John Judd, P.E., of Gateway Consultants, attested that he was hired to review the 2016 sewage system design plan done by Mill River Consulting. The steep slopes require 14 foot retaining walls and unsafe access to construct the design. For these reasons the system will not be feasible. The cost Mr. McDonald was quoted to construct the system was \$110,000. Mr. Judd requested to be able to do additional soil testing to the right of the house, closer to the road, which will allow safer construction access and shorter retaining walls.

Mr. Judd confirmed he would be able to have a new sewage design system submitted to the Public Health office within one week of the soil testing date. Dr. Boreri asked if there was a contingency plan if the additional soil testing was not favorable. Mr. Judd noted that if the additional soil testing was not favorable for a new sewage system design, he will design a new sewage system with the previous soil testing results and utilize step trenches or an Alternative Technology.

The Board reviewed the approved plan and considered the request to do additional soil testing in a new location for the purpose of a new septic design that would be more financially feasible.

Susan Hubbard made a motion that the septic system must be upgraded by October 31, 2018. If the system is not installed on or before October 31, 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. Margaret McDermott seconded the motion. The motion passed unanimously.

6:12 - Daniel and Jennifer Gallant – 144 Topsfield Road – Title 5 Inspection Variance

Daniel Gallant presented, and the Board conducted a hearing to consider a request for a variance from section 10.2 of the Ipswich Board of Health Septic Regulations. Section 10.2 reads; a septic system shall

be inspected by an Ipswich licensed Title 5 Inspector whenever an addition or renovation to an existing building, excluding decks, is proposed that increases the footprint of the building and requires a building permit or occupancy permit from the building inspector. The inspection requirement shall be waived if a Certificate of Compliance was issued or a Title 5 Inspection was completed within the previous 3 years, or if the system is under an operation and maintenance contract.

At the meeting, Mr. Gallant clarified that it is his intention to finish the second floor which is currently one open unfinished space. No increase in footprint is proposed. Based on this information, a variance was not required

6:15 - Report of the Health Agent:

- **Recreational Camps for Children Regulation Updated April 26, 2018:** On March 23, 2018, amendments were finalized to 105 CMR 430.000: Minimum Standards for Recreational Camps for Children (State Sanitary Code, Chapter IV) which will go into effect this summer. The purpose of the amended camp regulations is to revise outdated standards, clarify language and add new requirements in response to stakeholder input, as well as to improve the overall clarity and readability of the regulation for housing, health, safety and sanitary conditions for minors attending recreational camps for children in the Commonwealth.

The timing of the regulation update provides local camps with limited time to comply with the new regulations. A mailing dated April 9, 2018 was sent to the 3 Ipswich camps and included the new forms and guidance documents along with an outline of the regulation changes.

- **Polished Dental Clinic:** The Ipswich Public Health Department, in conjunction with the Ipswich Public Schools, offered the Preventative Dental Program, Polished, again this year at the Ipswich Town Hall on Thursday, April 5th. This was the 7th year the program has been offered to the Ipswich community in an effort to bring free dental care to children under 18, as well as adult dental care. Dental hygienists provided dental screenings and cleanings for adults for \$49. Children received free dental screenings, cleanings, sealants and fluoride. 6 children and 10 adults attended the clinic.
- **56 Country Club Way – Update from the Office of the Attorney General:** The Public Health Department is pursuing a petition for receivership with the Attorney General's Office under the Abandoned Housing Initiative.
- **Municipal Board of Health Tobacco and Public Health Policy Program RFR:** Susan Hubbard signed an updated collaborative agreement for tobacco compliance checks. This includes, but is not limited to, education, tobacco sales compliance checks, tobacco retail store inspections and secondhand smoke inspections; and ensuring that penalties prescribed in the laws or regulations are fairly and consistently enforced against workplaces and tobacco retail stores found to be in violation of state and local laws.

Next Board Meetings: The next meetings of the Board of Health were scheduled for June 4, 2018, July 16, 2018, August 13, 2018, September 10, 2018 October 1, 2018, November 19, 2018 and December 10, 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 May 7, 2018 Board of Health meeting:

- April 2, 2018 Board of Health minutes.
- Chapter II of the State Sanitary Code.
- 22 Sagamore Road Inspection Report and Order for Correction dated March 26, 2018.
- Title 5 and Ipswich Board of Health Septic System Regulations.
- Septic System Design Plan for 5 Bayview Road.
- Septic System Design Plan for 15 Quay Road.
- Septic System Design Plan for 71 Skytop Road.
- Letters dated February 13, 2018 and April 24, 2018 from Colleen Fermon regarding 71 Skytop Road.
- Emails dated April 25, 2018, April 26, 2018 and April 27, 2018 from John Judd regarding 71 Skytop Road.
- Title 5 Inspection Report dated April 4, 2013 for 144 Topsfield Road.

Susan C. Hubbard, Chairperson

Dr. Susan Boreri, Board Member

Margaret McDermott, Board Member