

Board of Health Minutes
Monday, July 16, 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 5:30 PM.

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

Others in attendance: Director of Public Health; Colleen Fermon, Jennifer Brown, Administrative Assistant, John Morris, Ipswich Housing Inspector, Gerard McDonald, P.E., Hugh L. Graham, P.E., Daniel Johnson, R.S., John Morin, P.E. and Peter and Margaret Johnson.

Citizens Queries: None.

Minutes: Dr. Susan Boreri made a motion to approve the June 4, 2018 minutes. Susan Hubbard seconded the motion. The motion passed unanimously.

Hearings:

5:31 - Peter and Margaret Johnson – 5 Spring Street, Unit 1 – Order for Correction; Violations of Chapter II of the State Sanitary Code

Ipswich Housing Inspector, John Morris, provided some background information for the Board. As a result of a complaint received on May 7, 2018 by the occupant, a housing inspection was conducted, in accordance with 105 CMR 410.000: State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation and an Order for Correction was issued to the owner on May 7, 2018. The owner was ordered to bring the dwelling into compliance with the State Sanitary Code 105 CMR 410.000 within 30 days.

On June 15, 2018, a re-inspection was conducted and violations remained. Since the owner did not comply with the order a hearing was scheduled with the Board of Health. Peter and Margaret Johnson were present at the meeting.

Mr. Morris stated that he contacted the owners on July 10, 2018 to request another re-inspection. The request was declined by the owner who said he would provide documentation to the Board at the meeting proving that repairs were in process.

At the meeting, Mr. Johnson attested that he ordered replacement windows and hired a contractor to do the exterior repairs but he needed additional time to make the corrections which are extensive. Additionally, Mr. Johnson attested that he corrected all interior violations. On July 11, 2018, documentation was provided to the Public Health Office to show the gas service was repaired and inspected and that a pest control service was hired. No evidence of droppings were found during the pest control service's inspection. An invoice and an installation contract was also provided to show the windows were purchased and are scheduled for installation on August 5, 2018. The contract was signed on July 10, 2018. Additionally, Mr. Johnson attested that a contractor has been hired to repair the siding. The Board reviewed the documentation provided. A building permit has not been applied for yet.

Based on Mr. Johnson's assertion, Mr. Morris felt an effort had been made to correct the violations but said without doing a re-inspection this cannot be confirmed.

Susan Hubbard asked the owners why they declined the re-inspection request. Mr. Johnson stated there are 3 violations that remain and he wanted to wait to go before the Board to request an extension for a timeframe for the remaining violations and didn't want to incur two re-inspection fees.

Colleen Fermon stated that in the interim a re-inspection should be conducted to verify compliance with the interior repairs if the Board is going to grant an extension. The Board discussed having a re-inspection conducted immediately to verify compliance.

Susan Hubbard made a motion to modify the order and grant the owner until August 31, 2018 to obtain compliance with 105 CMR 410.000 with the condition that a re-inspection is conducted within 3 days, by July 19, 2018, and the re-inspection demonstrates substantial compliance for all interior violations. Once all the corrections have been made the owner must contact the Public Health Office and request an inspection so they may obtain a letter of compliance. A \$75.00 fee is assessed for each re-inspection. Dr. Boreri seconded the motion. The motion passed unanimously.

It was noted by the Board that failure to correct all violations by August 31, 2018 may result in a criminal complaint being filed against the owner in court for failure to comply with a Board of Health order.

5:58 - Deutsche Bank National Trust Co Trustee – 33 Bayview Road – Order for Correction; Violations of Chapter II of the State Sanitary Code and Noncompliance with Title 5 of the State Environmental Code

The owner was not in attendance at the meeting. Ipswich Housing Inspector, John Morris, was present and provided the background. The septic system serving 33 Bayview Road failed a Title 5 Inspection on April 29, 2016. In accordance with 310 CMR 15.000, Title 5, they were required to upgrade the septic system within 2 years from the date of failure; by April 29, 2018. In a letter dated January 11, 2018, the owner was asked to contact Colleen Fermon and provide their plans for the upgrade of the septic system since soil testing had not been conducted and the upgrade deadline was approaching. This letter was received via certified mail.

Additionally, a plain view inspection was conducted on May 5, 2018, in accordance with 105 CMR 410.000: State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation and an Order for Correction was issued to the owner on May 5, 2018. The owner was ordered to bring the dwelling into compliance with the State Sanitary Code 105 CMR 410.000 within 30 days. To date, no action has been taken.

In a letter dated June 12, 2018, the owner was ordered to attend the July 16, 2018 Ipswich Board of Health meeting to discuss a timeframe for bringing the property into compliance with 310 CMR 15.00 and 105 CMR 410.00. The owner was informed that the Board of Health would consider issuing a finding that the dwelling is unfit for human habitation which may result in an order of condemnation requiring the owner to secure the dwelling and the occupants to vacate the dwelling.

Since no action was taken to bring the property into compliance and no one attended the meeting to provide their plans for the upgrade of the septic system, Susan Hubbard made a motion to deem the dwelling unfit for human habitation and issue an order of condemnation since the dwelling is served by a failed septic system. The owner shall secure the dwelling within 48 hours of receipt of the order. Additionally, the Board of Health will refer the property to the Office of the Attorney General's Abandoned Housing Initiative. Dr. Boreri seconded the motion. The motion passed unanimously.

6:00 - Deutsche Bank National Trust Co Trustee – 6 Broadway Avenue – Order for Correction; Violations of Chapter II of the State Sanitary Code

The owner was not in attendance at the meeting. John Morris presented.

Due to a complaint from a neighbor, a plain view inspection was conducted on May 7, 2018, in accordance with 105 CMR 410.000: State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation and an Order for Correction was issued to the owner on May 7, 2018. The owner was ordered to bring the dwelling into compliance with the State Sanitary Code 105 CMR 410.000 within 30 days. The order was received via certified mail on May 14, 2018. To date, no action has been taken.

In a letter dated June 12, 2018, the owner was ordered to attend the July, 2018 Ipswich Board of Health meeting to discuss a timeframe for bringing the property into compliance with 310 CMR 15.00 and 105 CMR 410.00. The owner was informed that the Board of Health would consider issuing a finding that the dwelling is unfit for human habitation which may result in an order of condemnation requiring the owner to secure the dwelling and the occupants to vacate the dwelling.

Since no action was taken to bring the property into compliance and no one attended the meeting to provide their plans to bring the property into compliance, Susan Hubbard made a motion to deem the dwelling unfit for human habitation and issue an order of condemnation. The owner shall secure the dwelling within 48 hours of receipt of the order. Additionally, the Board of Health will refer the property to the Office of the Attorney General's Abandoned Housing Initiative. Dr. Boreri seconded the motion. The motion passed unanimously.

6:01 - Isabel and Manuel Espinola – 74 Argilla Road – represented by The Morin-Cameron Group, Inc. - Septic System Design Variances

John Morin presented, and a hearing was conducted to consider variances from Title 5 for a sewage disposal system plan # S-3569 designed by John Morin, P.E., dated March 29, 2018 and last revised June 26, 2018 for a 4 bedroom dwelling.

The existing 4 bedroom dwelling transferred on July 28, 2017 and is currently unoccupied. It is the owner's intention is to raze and rebuild the dwelling with an addition.

Mr. Morin proposed the use of a Waterloo Biofilter and Bottomless Sand Filter for the septic upgrade because of existing soil conditions, high groundwater and topography. The Bottomless Sand Filter is an alternative component of a soil absorption system where soils for an onsite sewage disposal system or site conditions make a conventional soil absorption system infeasible. The Bottomless Sand Filter provides for higher loading rates and requires less area and less disturbance of the site. He requested the following variances:

- To allow the use of a sieve analysis in lieu of a percolation test.
- A reduction in the in the separation between the septic tank inverts and the ESHGW. A 2 inch separation is provided.
- To allow the use of one test pit in the soil absorption area.

The Board considered the requests. Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon noted that a Title 5 inspection was not done as part of the transfer of title. Since a Title 5 inspection was not done and an agreement to upgrade the system was not provided to the Public Health Department, Ms. Fermon felt the Board should approve the variances as requested with the condition that the upgrade must be completed with the Certificate of Compliance issued by July 28, 2019; 2 years from the date of transfer. She recommended approving the plan and granting the variances as requested with the following conditions:

- A two year Operations & Maintenance contract for the Waterloo Biofilter and Bottomless Sand Filter must be submitted to the Public Health Office prior to the issuance of the Disposal System Construction Permit.
- 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 Installer and has received appropriate training for the installation of a Bottomless Sand Filter. In addition to the certification, proof of training must be submitted to the Public Health Office.
- Prior to issuance of Disposal System Construction Permit, the System Owner shall record in the chain of title for the property in the Registry of Deeds or Land Registration Office, a Notice of Alternative Disposal for the Waterloo Biofilter and Bottomless Sand Filter. 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 of Alternative Disposal can be found on the Massachusetts Department of Environmental Protection's website <http://www.mass.gov/dep>.
- Prior to issuance of 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.
- Prior to the issuance of a Certificate of Compliance, the Public Health Office shall receive a copy of the certified sand analysis conducted on the media.
- Prior to the issuance of a Certificate of Compliance, the System Installer and Designer must provide to the Public Health Office, in addition to the certifications required by Title 5, certifications in writing that the System has been constructed in compliance with the terms of the Waterloo Biofilter and Bottomless Sand Filter Approvals, Title 5, the approved design plans, and all local requirements.
- Upgrade must be completed with the Certificate of Compliance issued by July 28, 2019.

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

6:08 - Brian Bilo (potential buyer) – 104 Little Neck Road – represented by H.L. Graham Associates, Inc. - Soil Testing Results Extension

Larry Graham, P.E., presented and a hearing was held to consider a request for a variance to Ipswich Board of Health Septic System Regulations 8.10; which states that an extension of the soil testing results may be granted by the Board of Health beyond the two years provided a request for said extension is submitted in writing to the Board before the results have expired. Soil testing was conducted on August 28, 2007.

Mr. Graham explained that the property is for sale and there is a potential buyer, Brian Bilo. Mr. Graham explained that it is Mr. Bilo's intention to purchase the property and he would like to extend the validity of the soil testing results until November 5, 2019 so they can be utilized for a new design. The current owner had a subsurface sewage system design approved on November 5, 2013 but the disposal system construction permit (DSCP) and associated soil test results expired on November 5, 2017 before the system was installed. The property is unoccupied and there have been no changes to the site since the August 28, 2007 soil testing was conducted.

The Board considered the request. Susan Hubbard made a motion to grant a variance and extend the use of the soil testing results conducted on August 28, 2007 until December 31, 2019 with the condition that the property remains unoccupied until the new septic system is installed. Dr. Boreri seconded the motion. The motion passed unanimously.

6:12 - Wich Wich Realty Trust – 28 Bay View Road – represented by H.L. Graham Associates, Inc.- Septic System Design Variances

Gerry McDonald, P.E., presented, and a hearing was conducted to consider variances from Title 5 and Ipswich Board of Health Septic System Regulations and an Alternative Technology Waiver for sewage disposal system plan # 18-801 designed by Gerard McDonald, P.E., dated June 13, 2018 and last revised July 11, 2018 for the 3 bedroom dwelling located at 28 Bay View Road, Ipswich, Massachusetts.

Susan Hubbard asked if the abutters were notified. Mr. McDonald provided certified green cards as proof of notification.

Mr. McDonald said this is a voluntary upgrade and it is the intention of the owner to raze and rebuild a three-bedroom dwelling in conjunction with the installation of the upgraded septic system. He proposed the use of a Perc-Rite Drip Dispersal System, Waterloo-Biofilter and Pro-Step pump vault for the upgrade. A Waterloo Biofilter System is included in the design so a 48.2% reduction in leach field size can be taken. The design is based on a 60 minute per inch perc rate. The following variances were requested:

- A 1 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 2 foot setback is provided.
- A reduction in the setback between the leach field and the cellar wall. A 4 foot setback is provided.
- A reduction in the setback between the septic tank and the property line. A 3 foot setback is provided.
- A reduction in the setback between the septic tank and the slab. A 3 foot setback is provided.
- A reduction in the setback between the waterloo tank and the property line. A 2 foot setback is provided.
- A reduction of the design flow from 150 gallons/bedroom/day to 110 gallons/bedroom/day.
- A 48.2% reduction in leach field size.

Mr. McDonald explained there was a 60 minute per inch percolation rate when soil testing was conducted and that the Perc-Rite Drip Dispersal System is designed for sites with restrictive soil conditions. The Perc-Rite Drip Dispersal System is a pressure distributed subsurface wastewater drip dispersal system that replaces a conventional soil absorption system. The system is designed to distribute septic tank or secondary effluent and pressure discharge it at a depth of at least 6 inches below finished grade. The Local Upgrade waiver requests are needed because of setback requirements.

The Board considered the requests. Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon confirmed that these requests are needed for any design with the exception of a Bottomless Sand Filter. Based on the limitations of the property, Ms. Fermon recommended approving the plan and granting the variances as requested 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, the Waterloo Biofilter and the Pro-Step pump vault prior to issuance of Disposal System Construction Permit.
- A Notice of Alternative Disposal for the Perc Rite Drip Dispersal System and the Waterloo Biofilter 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>.

- 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.
- 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.
- The property lines must be surveyed and staked prior to the installation of the system.
- An Ipswich licensed installer must come to the 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.

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

6:20 - Estate of Murray and Noeline Martin – 1 Seaview Road – represented by Domestic Septic Design, Inc. - Septic System Design Variances

Daniel Johnson, R.S., presented, and a hearing was conducted to consider a variance from Title 5 for a sewage disposal system plan # J-2552 designed by Daniel Johnson, R.S., dated May 15, 2018 and last revised July 9, 2018 for the 4 bedroom dwelling located at 1 Seaview Road, Ipswich, Massachusetts.

The system failed a Title 5 inspection March 6, 2018. Mr. Johnson proposed the use of a Presby Enviro Septic System for the upgrade since it allows a 40% reduction in the size of the leaching area. He requested a 5 foot reduction in the setback between the cellar wall and the leach field. A 15 foot setback is provided.

The Board considered the request. Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon recommended approving the plan and granting the variance as requested. Susan Hubbard made a motion to approve the plan and grant the variance as requested 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 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. 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, 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 Public Health Office.
- 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 plan and a signed copy of the approved plan.
- The system must be installed with the Certificate of Compliance issued by March 6, 2020.

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

6:24 - Report of the Health Agent:

Tobacco: The senate passed youth tobacco prevention legislation. There are differences between the house and senate bills that need to be worked out. Additionally, Ms. Fermon noted that Town Manager, Anthony Marino, forwarded an email requesting the Ipswich beaches be smoke-free.

Ms. Fermon felt it would be beneficial for the Board to review the current Ipswich Sale and Possession of Tobacco Products and Minors Regulation and the Ipswich Environmental Tobacco Regulation in the future. This grant will provide the Public Health Office with the resources and funding to train and educate retailers about tobacco use and the ability to do compliance checks.

Since some issues may be addressed at the state level, such as raising the purchasing age to 21, vaping, and prohibiting tobacco sales in pharmacies, a review of state legislation needs to be ongoing. The Board was interested in modifying the Ipswich Tobacco Regulations to address vaping but they want to see if the tobacco grant is approved and Ipswich becomes part of a regional tobacco collaborative.

The Board felt addressing education and enforcement at the retail level should be handled before environmental tobacco regulations are reviewed. They want to see how the proposed legislation banning vaping in the workplace plays out at the state level.

56 Country Club Way: The Ipswich Housing Inspector appeared in Housing Court with a representative of the Attorney General's Office on June 8, 2018 to discuss the condition of the property and the owner's failure to make corrections. It was the decision of the Housing Court that a receiver would be appointed on July 25, 2018 if permits are not pulled and substantial work is completed.

59 Topsfield Road: The Board directed Colleen Fermon to have an inspection done since there are apparent violations of 105 CMR 410.000. The owner has been issued orders in the past in 2014 and 2015 and has not maintained the land in a sanitary condition.

Next Board Meetings: The next meetings of the Board of Health were scheduled for 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 July 16, 2018 Board of Health meeting:

- June 4, 2018 Board of Health minutes.
- Title 5 and Ipswich Board of Health Septic System Regulations.
- 5 Spring Street, Unit 1 Inspection Report and Order for Correction dated May 7, 2018 and re-inspection dated June 15, 2018.
- 33 Bay View Road Inspection Report and Order for Correction dated May 5, 2018.
- Letter from Colleen Fermon regarding the Title 5 failure and Order for Upgrade at 33 Bay View Road dated January 11, 2018.
- Title 5 inspection form regarding the Title 5 failure at 33 Bay View Road dated April 29, 2018.
- Board of Health decision letter from Colleen Fermon regarding 33 Bay View Road dated June 12, 2018.

- 6 Broadway Avenue Inspection Report and Order for Correction dated May 7, 2018.
- Board of Health decision letter from Colleen Fermon regarding 6 Broadway Avenue dated June 12, 2018.
- Septic System Design Plan for 74 Argilla Road.
- Septic System Design Plan for 104 Little Neck Road.
- Septic System Design Plan for 28 Bay View Road.
- Septic System Design Plan for 1 Seaview Road.
- Email dated May 29, 2018 from Anthony Marino regarding regulating tobacco use at Ipswich beaches.

Susan C. Hubbard, Chairperson

Dr. Susan Boreri, Board Member