

**Board of Health Minutes**  
**Monday, August 13, 2018 5:30 PM**  
Meeting Room B1, 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, Dr. Susan Boreri and Margaret McDermott were in attendance.

**Staff in attendance:** Director of Public Health, Colleen Fermon, and Interim Recording Secretary, Marie Rodgers.

**Citizens Queries:** None.

**Minutes:** Dr. Susan Boreri moved to approve the July 16, 2018 minutes. Susan Hubbard seconded, the motion passed unanimously.

**Hearings:**

**110 North Ridge Road** – request approval for an Alternative Technology Waiver

Daniel Ottenheimer from Mill River Consulting was filling in for C.G. Johnson Engineering, Inc. and presented the request on behalf of the home owner Callie Crosby, who was present as well.

He described the proposal to raze the existing three bedroom dwelling and replace in kind, with an upgrade to the three bedroom septic system using a Waterloo Biofilter and Perc Rite Drip Dispersal System, providing a two foot reduction in the separation between the bottom of the leach system and ground water. This two foot reduction is allowed pursuant to the DEP's Remedial Use Approval for Waterloo Biofilter.

Colleen Fermon recommended the Board grant the waiver and allow the reduction in the separation, based on the technology in the design with the following conditions;

A two-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.

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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.

March 23, 2019 is the deadline for system to be installed.

#### **MOTION**

**Susan Hubbard moved the Board approve the reduction in separation as requested, subject to the conditions of approval enumerated by Colleen Fermon. Dr. Susan Boreri seconded, the motion passed unanimously.**

#### **18 Ocean Drive, Request for a Determination for Septic System Bedroom Count**

Colleen Fermon reviewed there is a two bedroom deed restriction, on this property, which was recorded at the registry of deeds. Not long ago, she spoke with the owner Mr. Wallace Varga and he wanted to review the file; he felt that the septic system design that was utilized in 2002 is not reflective of his septic system now and should be recognized as a three bedroom not a two bedroom system.

The owner, Wallace Varga Jr. was present. He submitted two pages titled Varga Residence 18 Ocean Drive –Septic Hearing, outlining the history and summary of his request. He also submitted: Deed Restriction for 18 Ocean Drive; Tiger Home Inspection letter dated 8/19/1998; letter from Cummings Architects dated 8/7/2018; Assessor's field cards dated 12/02/94 and FY2004; Copy (8"x 11") of a Plan of Land from Atlantic Engineering dated June 14, 2002.

Mr. Varga explained when he purchased the property in 1998, it was advertised as a three bedroom home. In 2002 he was planning a \$150,000 major renovation with an addition of a garage with a master bedroom and family room and was surprised to discover that the town described his home, with a two bedroom septic system.

He never saw a copy of the septic plan and he opined that the contractor never connected the dots.

In 2002 he agreed to the two bedroom deed restriction, because there was a lot of money involved, and it would allow him to proceed with his building permit.

Mr. Varga continued to relate, sixteen years later, he's now looking to put a porch on the back house and in order to accomplish this, he's proposing to move the pipe on the back of the septic tank to the distribution box; at the recommendation of the contractor Dave Clark. For this, the original septic system plan was pulled from the town and it was the first time he ever saw it; he was surprised to see it was incorrect and on the wrong lot; the original septic system design is for parcel #58, the 5,000 square foot lot. He purchased parcel the 10,000 square foot lot #59.

He thinks what happen in 2002 is, this was noted two bedroom, the contractor never connected the dots and never said this is not the septic system design, and that's where the confusion came, the plan on file with the town is the wrong plan and doesn't match his property. Further evidence is the assessor's filed card from 1994, it classifies the house as a three bedroom property and in 2004 shows a three bedroom property.

Also, he cited a letter from Cummings Architects, who did work in 2002 and indicates it was a three bedroom home.

He asserted that it's only now, he's doing this work for the first time; it's not the correct plan.

Susan Hubbard asked "Why did you sign a deed restriction in 2002?"

Mr. Varga responded, it was the only way he could move the project forward, as he already had several thousand dollars invested.

Discussion took place regarding the location of the septic system and the combination of lots 58 and 59 in 1993; Mr. Varga purchased both lots in 1998; lot 58 was never built on; the septic system he uses is located on lot 59.

Colleen Fermon reported that the plan on file with the town is for lot 58 and was drawn in 1987; the two lots became 18 Ocean Drive at some point in 1993. In 1998 the title 5 inspection had a 15' x 30' field which matches what is listed on the plan, but the layout of the tank and distribution box were/are located differently. There are no details from the application for the septic system which was approved on 12/13/89 for lots 58 & 59 Ocean Drive. The engineered plan is for a 2 bedroom system for lot 58. Another title 5 inspection after the deed restriction, shows a slightly smaller field, 15' x 25', than was on the plan.

Mr. Varga said the key point is the only town records on file, have the house as a three bedroom; the two bedroom deed restriction was based on an incorrect plan. Susan Hubbard questioned how is it an incorrect plan, if the lots were combined? Did he put in a subsequent system? The answer was no.

Lengthy discussion was held speculating what transpired years ago and ramification of allowing a three bedroom system without certainty of fact. Mr. Varga said he's only asking to remove a deed restriction. The Board said he is asking to break the contract; he needs to prove it's a three bedroom system.

The Board discussed options, to know for sure if it's a three bedroom system, he would need to put in a three bedroom system; for now it's a two bedroom system. The current system is unknown and if in the future it sells as a three bedroom and it's a two bedroom system, it could present a real problem.

Susan Boreri asked about trying to figure out the system loading/sizing criteria.

Colleen Fermon said the Board would have to decide how they'd want to look at it; the loading rates differ present day. Did they want soil testing done to confirm a percolation rate for the area of the leaching system?

There are too many unknowns.

Larry Graham, HL Graham Associates, indicated that he did soil test in 1984 and spoke to his observations, the plan does not reflect what's there; he opined it was unfortunate he agreed to sign the deed restriction. There's more room to possibly expand the system, his system is not in failure, there's no change in bedrooms and if, he had to the upgrade system he could meet the variance based on the percolation rate. Lastly, he agreed with Board, that to work backwards is a very difficult way to determine the size of a system.

Options were discussed: upgrade to a three bedroom system and Mr. Varga said he could explore his legal options to remove the deed restriction.

Colleen Fermon clarified the Board would allow him to upgrade to a three bedroom system without committing to new construction standards

#### **MOTION:**

**Susan Hubbard moved not to grant the request to recognize the system as a three bedroom system, however, if the owner decides to upgrade to a three bedroom the Board will not determine it to be new construction and will help work through the permitting process. Margaret McDermott seconded, the motion passed unanimously.**

Colleen Fermon clarified the Board's decision was open ended, with no time limit, members agreed. Mr. Varga indicated that he would research how to remove the deed restriction or he can appeal the BOH decision.

#### **10 Cape View Road, Mimi and Gino Tzortzis request an Extension for Septic System Upgrade**

John Morin, Morin-Cameron Group, Inc. was present to represent the owners.

The septic system design was approved on April 10, 2018. A condition of approval was the new system be installed by September 15, 2018. The system had failed the title 5 inspection back in September 15, 2016.

The owner proposed to raze the dwelling and new construction will commence in August. The owner would like to install the system either late fall or early spring 2019. The owner requested an extension to September 15, 2019.

**MOTION**

**Susan Hubbard moved to grant the extension of time to September 15, 2019 as requested. Margret McDermott seconded, the motion passed unanimously.**

**277 Topsfield Road**, Cheryl Seaman, Appeal of the Building Permit Application Denial

The owner withdrew their appeal prior to the meeting.

**66 Town Farm Road** Nicholas and Anjali Steenhaut request a Variance from a Title 5 Inspection

Larry Graham, HL Graham Associates, presented on behalf of the owners and reported the approval for an accessory apartment from the ZBA. He spoke to the topography and location of garage determining the need for a new system for the accessory apartment.

Colleen Fermon indicated the septic system was last pumped out and inspected on 8/5/2013. She supported the request to waive the title 5 inspection for existing septic system; a new septic system will be installed for the addition of the accessory apartment.

**MOTION:**

**Dr. Susan Boreri moved to grant the variance as discussed. Margaret McDermott seconded, the motion passed unanimously.**

**59 Topsfield Road Pelletier Family Trust** request an Appeal the Order for Correction; Violations of Chapter II of the State Sanitary Code.

Owner Reta Pelletier and her son John Pelletier were present.

Colleen Fermon reviewed that an inspection was conducted, as directed by the Board of Health, and an order was issued to the owner, for violations found under 105 CMR 410.602 and 601.

Ms. Pelletier stated that she has lived there since 1966, now with her son and is unable to get out and do stuff. Additionally, her furnace needs work and she needs to move stuff.

Discussion was held regarding the overgrown vegetation in front of the house. Ms. Pelletier indicated that it was just cut. Photos of the property were viewed; John Pelletier indicated his understanding that the landscape was never a part of the problem. More photos were viewed showing debris in the yard. Tables were set up for a yard sale; Ms. Pelletier stated that she can't afford a storage unit.

John Pelletier indicated things were put on hold because he was taking medication that made him sick for two months, now he's better and if the weather cooperates, he indicated that yard sales will take place.

Colleen Fermon cited the state regulations, 105 CMR 410.602 and 601, as requested by Ms. Hubbard. Dr. Boreri explained the potential danger of emergency professionals unable to access the home and to the occupants and risk to neighbors.

Colleen Fermon explained the process to the owner; there is a hearing, the board makes a decision and the owner needs to comply with it or appeal it. If she doesn't comply the Board can file a complaint in court against her so she needs to fully discuss the situation with the Board now and provide a plan to clean up the property.

Margaret McDermott said it is going to take more than a yard sale.

Discussion was held regarding the state standards for health and safety, garbage and rubbish. The issue with overgrown vegetation, it can be a place for rodents to hide.

The owner was issued orders in 2012 and 2015 and has not maintained the land in a sanitary condition.

**MOTION:**

**Susan Hubbard moved that the driveway and all land needs to be cleaned up within thirty days. Dr. Boreri seconded, and the motion passed unanimously.**

Susan Hubbard noted for the record that when Mr. Pelletier departed he swore "F\*\*\* you".

**Public Health Director's Report**

**Tobacco Collaborative Grant**

Public Health Agent Colleen Fermon reported on the Omni-bus Bill passed at the state level, with \$125,000 approved to be divided up among sixteen communities. The question for the Board was how they would like to go about revising their regulations to raise the Minimum Legal Sales Age MLSA to 21 over a three year period. Options were discussed, the North shore/Cape Ann TAPP Program director could come to a meeting and go over the highlights with the Board and speak to the changes.

It was agreed that Colleen Fermon and Dr. Boreri will meet, review the changes and provide more information at the September meeting.

**An Act Protecting Youth from the Health Risks of Tobacco and Nicotine Addiction**

The funding, a combination of state and federal dollars, will help local communities establish and maintain comprehensive tobacco control programs based on the US Centers for Disease Control and Prevention Best Practices designed to:

Protect youth from exposure to tobacco and vaping industry tactics and prevent youth initiation of tobacco/nicotine use.

- Protect residents from secondhand smoke
- Ensure all Massachusetts users of tobacco/nicotine have access to cessation resources
- Identify tobacco-related disparities and target efforts toward those disproportionately affected

**RDNA Regulation**

Ms. Fermon reported that the Town Manager requested the BOH look at the regulations and streamline the process.

The Board felt that they should know what uses of RDNA are doing in town.

New England BioLabs is looking to expand but the current practice is not an issue, they do registration. Maybe the schools wouldn't have to file.

Discussion took place regarding the level of regulations. Eliminate the exempt work, frees the schools and may not have an impact on New England BioLabs. Dr. Borier indicated that there were new guidelines at the Federal level. Susan Hubbard suggested asking Rebecca Ryan Caruso what she thinks about the changes and her recommendations.

General discussion took place concerning compliance and enforcement of new regulations.

Colleen Fermon announced a new program from DEP, the Massachusetts version of the U.S. EPA online tool called "Be Well Informed" (BWI). This tool allows private well-owners to anonymously compare their lab results to state or federal standards or guidelines that exist for public drinking water. The tool also provides information about any potential health risks, and known water treatment options available to homeowners. Additionally, the Board could look at the town's well regulations in the near future.

**Next Board Meetings:** The next meetings of the Board of Health were scheduled for 9/10/18; 10/1/18; 11/19/18 and 12/10/18 at 5:30 PM.

**Adjourn:** Susan Hubbard moved to adjourn at 6:50 PM. Susan Boreri seconded, the vote was unanimously in favor.

Respectfully Submitted,

Marie Rodgers  
Interim Recording Secretary

Documents and exhibits used by the Board of Health:

Agenda; Meeting notes from the Health Agent;  
July 16, 2018 Board of Health minutes;  
Title 5 and Ipswich Board of Health Septic System Regulations;  
Email from Joyce Redford dated 8/9/2018;  
Letter from Nicholas Steenhaut, 66 Town Farm Rd dated 8/7/2018;  
59 Topsfield Rd, Housing Inspection Report and order, dated 7/31/2018, orders from 2012 and 2014;  
10 Capeview Rd, Morin-Cameron letter dated 7/31/2018;  
18 Ocean Drive, Varga Residence, history of issue, no date; Deed Restriction for 18 Ocean Drive dated 8/23/2002; Tiger Home Inspection letter dated 8/19/1998; Letter from Cummings Architects dated 8/7/2018; Assessor's field cards dated 12/02/94 and FY2004; Plan of Land from Atlantic Engineering copy (8"x 11") dated June 14, 2002.

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Susan C. Hubbard, Chairperson

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Susan Boreri, Board Member

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Margaret McDermott, Board Member