

**Board of Health Minutes**  
**Monday, April 6, 2009, 6:00 PM**  
Meeting Room C, Town Hall  
25 Green Street, Ipswich, MA

**Call to Order:** Susan Hubbard called the meeting to order at 6:00 PM.

**Members attending:** Susan Hubbard and Spencer Amesbury.

**Others attending:** Health Director Colleen Fermon, Health Administrative Assistant Jennifer Brown, Gerry McDonald, P.E., Ken Savoie, Jim Winning, Steven Lombara, and Karin Carroll.

**Citizens Queries:** None.

**Minutes:** March 9, 2009 minutes.

Susan Hubbard made a motion to approve the March 9, 2009 minutes. Dr. Amesbury seconded the motion; the motion passed unanimously.

**6:05 – Hearing - Richard Belanger – 10 Charlotte Road – represented by Mill River Consulting – septic variances.**

Randy Burley, Project Manager for Mill River Consulting, presented, and a hearing was held to consider variances from Title 5 and Ipswich Board of Health regulations for a sewage disposal system plan designed by Daniel Ottenheimer, RS., dated March 3, 2009 and last revised March 26, 2009.

This is a voluntary repair of a septic system that is in failure. The existing system was installed in 2005. It is not known why the system failed prematurely.

Randy Burley and Colleen Fermon did a site inspection and confirmed an effluent breakout problem in the distribution box; a level, watertight structure which receives septic tank effluent and distributes it in substantially equal portions to distribution lines in a soil absorption system. A test pit was done on November 8, 2008 by Randy Burley, witnessed by Colleen Fermon, to confirm that the soils in the disposal area are consistent the soil information used for the septic design of the existing system. The soils were found to be consistent.

Randy Burley said that paint, belonging to the previous owner, was found in a basement sink. This has led to his speculation that paint may have caused the system failure if it had been disposed of into the septic system. The biomat was thin and would not allow effluent to percolate through it.

The new design proposes to abandon the existing septic tank that was from the system before the current system since it is a 2 piece tank that is more likely to become structurally unsound in the future. The pump chamber would be relocated. The leaching field will be placed in the same location once all the contaminated soil has been removed.

The following variances were requested:

- A reduction in the setback from the SAS to the cellar wall from 20 feet to 10 feet.
- A reduction in the setback from the SAS to the catch basin from 25 feet to 20 feet.
- A reduction in the setback from the septic tank to the cellar wall from 10 feet to 6 feet.
- A reduction of design flow rate from 150 gallons/bedroom/day to 110 gallons/bedroom/day.
- To allow the use of soil testing data that is more than two years old; soil testing was conducted on December 14, 2004.

Susan Hubbard asked Colleen for her thoughts. Colleen did not have a problem with the variance requests but felt it prudent to conduct a sieve analysis on the remaining Title 5 sand that would be reused. The sieve analysis would verify the existing fill in the ground is complies with Title 5 requirements for fill. Since the system failed only a few years after installation, everything should be checked.

Dr. Amesbury made a motion to approve the plan and grant the variances as requested with the following conditions:

- The existing fill that will remain on site must be sieve tested to confirm that it complies with Title 5 fill requirements.
- The system must be upgraded by April 6, 2011 with the Certificate of Compliance issued by said date.

Susan Hubbard seconded the motion. The motion passed unanimously.

**6:15 – Hearing - Joanna Barry – 19 Allen Lane – represented by H.L. Graham Associates, Inc. – septic variances.**

Gerard McDonald, P.E., presented, and a hearing was conducted to consider variances from Title 5 and Ipswich Board of Health regulations for a sewage disposal system plan designed by Gerard McDonald, P.E., plan 99-00556, dated November 6, 2007 and last revised January 30, 2009, for the dwelling located at 19 Allen Lane, Ipswich, Massachusetts.

The system failed a Title 5 inspection on August 11, 2008. This is an existing three (3) bedroom home.

Susan Hubbard asked if the abutters were notified. The abutters were not notified.

Susan Hubbard made a motion to reschedule the hearing until the May 4, 2009 Board meeting so that all abutters could be notified. Dr. Amesbury seconded the motion. The motion passed unanimously.

**6:25 – Hearing – Mary Crowther – 153 Argilla Road – represented by H.L. Graham Associates, Inc. – septic variances.**

Gerry McDonald, P.E., presented, and a hearing was conducted to consider a variance from Title 5 for a sewage disposal system plan designed by Gerard McDonald, P.E., plan 08-818, dated February 20, 2009 and last revised March 24, 2009, for the dwelling located at 153 Argilla Road, Ipswich, Massachusetts.

The system failed a Title 5 inspection on July 28, 2008. This is an existing four (4) bedroom dwelling.

A variance was requested from 310 CMR: 15.220 (4) for the requirement that the legal boundaries of the lot be shown on the plan to a scale of one (1) inch equals forty (40) feet. A scale of (1) inch equals for hundred (400) feet was utilized with all abutters shown on the design plan.

Susan Hubbard asked Colleen for her thoughts. Colleen recommended granting the variance as requested since this is a large parcel; making it very difficult for lot lines served to fit on the plan at a normal scale. Given this, Colleen felt a scale of (1) inch equals for hundred (400) feet seemed suitable. Furthermore, a locus map was provided on the design plan. Colleen reminded the Board that if the variance was granted, it may require approval from the Department of Environmental Protection (DEP) prior to installation of the system.

Gerry raised concern with the proximity of ledge (unsuitable material) to where the tank will be installed; ten (10) feet off the garage. He questioned the feasibility of a retroactive variance. Susan Hubbard felt a variance could be addressed at a later date as long as the as-built plan accurately reflects any changes.

Due to the size of the lot and the location of the proposed disposal system repair Susan Hubbard made a motion to grant a variance from 310 CMR: 15.220 (4) (a) for the requirement that the legal boundaries of the lot to be served be shown on the design plan at a scale of one (1) inch equals forty (40) feet. The entire property was shown on a plan with a scale of one (1) inch equals for hundred (400) feet. If necessary, approval must be obtained by the Department of Environmental Protection (DEP) prior to issuance of the Disposal System Construction Permit (DSCP). Dr. Amesbury seconded the motion. The motion passed unanimously.

**6:25 – Hearing – Amy and Steve Lombara – 5 Barnside Drive – extension on soil testing results.**

Steve Lombara presented, and a hearing was held to consider a request for a variance from the Ipswich Board of Health Septic System Regulations for soil testing conducted on March 29, 2007 for the property located at 5 Barnside Drive, Ipswich, Massachusetts.

Soil testing was conducted on March 29, 2007. Four testpits were done and all contained sandy loam soil. Two (2) perc tests were done; perc rates of seven (7) minutes per inch and fifteen (15) minutes per inch were obtained.

In accordance with Board of Health Septic System Regulations 8.1, soil testing conducted for new construction or upgrades shall be valid for two (2) years from the date of testing.

In accordance with 8.2, the request for an extension was submitted in writing by Mr. Lombara to the Board before the soil testing results had expired.

No changes have been made to the property since soil testing was conducted. Mr. Lombara explained to the Board that he intends to sell the property and is in the process of obtaining an engineer for the design of the septic system.

Susan Hubbard asked Colleen for her thoughts. Colleen recommended granting the extension.

Susan Hubbard made a motion to grant the extension since there have been no changes to the property since the date of soil testing. Said variance allows the soil testing information to be used for the basis of a septic design until December 31, 2009. Dr. Amesbury seconded the motion. The motion passed unanimously.

**6:30 – Hearing – Jim and Carol Winning – 87 North Ridge Road – represented by Savoie Architecture – bedroom count determination.**

Ken Savoie and Jim Winning presented, and a hearing was held to determine the number of bedrooms for the dwelling located at 87 North Ridge Road, Ipswich, Massachusetts for the purpose of rebuilding the home utilizing the current septic system.

The home was purchased by Mr. Winning, the current owner, in 1999 as a two (2) bedroom dwelling. Prior to 1999 a bedroom was divided into two (2) rooms by means of a wall. Subsequently, the wall that separated the two (2) bedrooms was taken down by Mr. Winning resulting in the one (1) bedroom dwelling.

In an office meeting with Mr. Winning, Colleen explained that because of the way the room is currently being utilized it is now a one (1) bedroom dwelling. She suggested he appear before the Board if he was unsatisfied with her determination.

Mr. Winning requested the Board determine the number of bedrooms in the dwelling. He stated his intent to demolish and rebuild the home as a two (2) bedroom utilizing the current cesspool system.

Title 5 Inspection Reports from 1995 and 1999 lists the home as containing two (2) bedrooms. The assessor's field card containing information up to 1986 shows a two (2) bedroom dwelling. The current assessor's field card shows a one (1) bedroom dwelling; the assessor said it appears the same home was measured in 1998 so that may that may be when the bedroom number was changed.

The Board must decide if they are satisfied with the evidence presented to determine that this is a two (2) bedroom dwelling.

Susan Hubbard asked Colleen for her thoughts. Colleen confirmed that two Title 5 inspection reports from 1995 and 1999 listed a two (2) bedroom dwelling. Since there were no engineered plans for the septic system and Colleen has not seen a floor plan of the existing dwelling, the number of bedrooms was determined by Colleen in accordance with Ipswich Board of Health Septic System Regulations. The dwelling was deemed to currently contain one (1) bedroom.

In accordance with Board of Health Regulations 2.14, the design flow for a dwelling shall be based on the number of bedrooms in existence at the time the septic system plan is designed if there are no engineered plans accompanied by a

Certificate of Compliance for the existing septic system. If there are no engineered plans, The Health Agent will conduct a walkthrough of the dwelling or review floor plans of the dwelling, supplied by the property owner, and determine the bedroom count utilizing the definition of bedroom provided in Title 5, 310 CMR 15.000. Sunrooms, three season rooms, solariums, etc. and screened porches which are habitable in winter shall be considered in the room count for determining the number of bedrooms in a dwelling. Colleen felt that based on current Board of Health Regulations the home would be considered a one (1) bedroom dwelling.

Dr. Amesbury believed the home had been utilized as a one (1) bedroom for quite some time and any change now could potentially double the flow to the existing cesspool. He did, however; feel there was enough evidence to prove the home has been utilized as a two (2) bedroom dwelling but thought it would make sense to know that the cesspool system is functioning properly.

Mr. Savoie requested that if the system was to be replaced it be held to repair standards.

Dr. Amesbury made a motion that the dwelling could be considered a two (2) bedroom dwelling with the condition that an Official Title 5 Inspection is conducted. If the system passed inspection, it could continue to serve the existing dwelling or a two (2) bedroom dwelling could be constructed. Should the system fail the inspection, the new septic system could be designed for two (2) bedrooms. The new design would not have to meet new construction standards. Susan Hubbard seconded the motion. The motion passed unanimously.

#### **6:40 - Discussion:**

#### **Karin Carroll – Project Coordinator – New England Youth Access Tobacco Prevention Program – Ipswich tobacco compliance update.**

Karin Carroll, Grant Coordinator, Northeast Massachusetts Youth Tobacco Prevention Program discussed the grant issued by the Massachusetts Department of Public Health to the Northeast Center for Healthy Communities. The three (3) year program includes working with sixteen (16) communities in Essex County to reduce youth access to tobacco. The program is designed to change community norms that support tobacco use; and prohibit the initiation of tobacco use by youth under the age of eighteen (18). The goal of the program is to establish strong partnerships with local boards of health and retailers to promote policies and strategies to reduce youth access to tobacco through innovative education and intervention.

Notification is sent to each business prior to a compliance check informing them of the upcoming visit and education program. Compliance checks are done once a year with follow-up check six (6) months after a failed inspection.

A letter of non-compliance is sent to retailers who sell to minors. Boards of Health are copied and requested to proceed within the parameters of local regulations.

Dr. Amesbury requested all compliance check reports be forwarded to the Board of Health for review. Ms. Carroll confirmed that all reports would be forwarded to the Board in the future.

Despite the knowledge that smoking is detrimental to their health, youth under the age of eighteen (18) are still smoking at a rate of seventeen percent (17%).

Various types of newer tobacco products were presented to the Board to demonstrate the extent tobacco companies currently market their products to a decidedly youth demographic. Emerging tobacco products such as smokeless and dissolvable tobacco are among the newer products making it easier for youth to consume tobacco products unnoticed. Additionally, some newer products, such as Snus, are refrigerated and therefore readily accessible through illegal self-service. Products such as ones that allow you to roll your own cigar are being utilized as drug paraphernalia (marijuana) and a product called the “love rose” is being utilized as a crack pipe.

Some of other new products include virtual or e-cigarettes, small flavored single cigars, and flavored cigarettes. Virtual or e-cigarettes contain nicotine without other added chemicals.

Since tobacco inspections began in Ipswich in 2006 the number of illegal sales of tobacco to minors has dropped from ten percent (10%) to four percent (4%).

State recommendations (templates) were given to the Board to consider changes to the Ipswich regulation for the Sale of Tobacco Products to Minors and the Smoke-free Workplace Law. There were two (2) points that differed from the Ipswich regulation for the Sale of Tobacco Products to Minors:

- A second violation results in a seven (7) day suspension of a license to sell tobacco.
- A third violation constitutes a thirty (30) day suspension of a license to sell tobacco.

Ms. Carroll informed the Board that legal support is available at no cost if the Board decides to amend their regulations.

### **7:00 - Report of the Health Agent:**

**Recombinant DNA:** Colleen located two (2) consultants to potentially provide the Health Department with proposals for the development of an Ipswich Board of Health regulation for the use of Recombinant DNA. In an effort to keep down cost, Colleen did some research and will be able to give the consultants a clearer picture of where the Board of Health is at and how to accomplish our goals. She recommended using the Lexington, Massachusetts regulation as a reference since it was revised in 2007 to meet the NIH Guidelines; last revised in 2002. No changes appear to have been made with risk groups and biosafety levels in the NIH Guidelines.

Colleen recommended replacing the town's biosafety committee with a consultant to handle Board of Health input.

At this juncture Colleen is looking for an acceptable draft for the town to consider for approval for fiscal year 2010.

**Next Board Meeting:** The next meetings of the Board of Health were scheduled for May 4, 2009 and June 1, 2009 at 6pm.

**Adjourn:** Susan Hubbard made the motion to adjourn at 7:15PM. Dr. Amesbury seconded the motion. The motion to adjourn passed unanimously.

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Susan Hubbard, Chairperson

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Dr. Spencer Amesbury, Board Member

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Charles Hill, Board Member

