

Board of Health Minutes
Monday, July 13, 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 6:02 PM.

Members attending: Susan Hubbard and Chuck Hill.

Others attending: Health Director Colleen Fermon, Health Administrative Assistant Jennifer Brown, Gerard McDonald, P.E., Larry Graham, P.E., John Judd, P.E., Isaac Rowe, R.S., Daniel Johnson, R.S., Katherine Atkinson, Diane Stewart, Fred Wells, Jack Rivers and Stephen Harris.

Citizens Queries: Jack Rivers requested a hearing to consider perc testing outside of the new construction testing season. Since an application for soil testing had not been completed by an engineer and submitted, with the appropriate fee, to the Health Department; it was the decision of the Board to postpone a hearing until the August 2009 meeting; contingent on the receipt of the soil testing application and the associated fee(s).

Minutes: Susan Hubbard made a motion to postpone approval of the April 6, 2009 and June 10, 2009 minutes until the August 2009 meeting since she was not present to give her approval for the June 10, 2009 minutes and Chuck Hill was not present at the April 6, 2009 meeting. Chuck Hill seconded the motion; the motion passed unanimously.

6:12 – Hearing - Ann Hezzey – 158 Argilla Road (formerly 160 Argilla Road) – Mill River Consulting – septic variance.

Isaac Rowe presented and a hearing was conducted to consider a variance from Title 5 for a sewage disposal system plan designed by Isaac Rowe, R.S, dated May 11, 2009 and revised June 18, 2009 for the dwelling located at 158 Argilla Road (formerly 160 Argilla Road), Ipswich, Massachusetts.

This is an existing four (4) bedroom dwelling. The septic plan submitted in May 2009 shows the existing house to be relocated. Colleen questioned the owner's plans for the home at this time. The intent is to move the house sometime in the future. Until that time they will utilize the existing dwelling.

A septic upgrade plan was previously approved in 2006 for the former owner. The current plan has one (1) variance request; the former plan had no variance requests. Additionally, the current plan has two (2) typos that the designer will change and initial. Neither change has to do with the variances being requested. Mr. Rowe initialed the corrected typos.

The following variance was requested:

- A 1 foot reduction in the separation between the estimated seasonal high groundwater (ESHGW) and the bottom of leaching area; a 3 foot separation is provided

Since only two (2) of twelve (12) trenches will have less than the required four (4) foot of separation Colleen recommended granting the variance with the condition that the system is upgraded by November 1, 2009 or the house is demolished by said date as outlined in the agreement signed by the current owner on March 18, 2008.

Chuck Hill made a motion to approve the plan and grant a one (1) foot reduction in the separation between the estimated seasonal high groundwater (ESHGW) and the bottom of leaching area. The system must be upgraded by November 1, 2009 or the dwelling demolished by said date as outlined in the signed agreement provided to the Board of Health on March 19, 2008. Susan Hubbard seconded the motion. The motion passed unanimously.

6:17 – Hearing - Nancy Grey-Smith – 116 Little Neck Road – represented by Domestic Septic Design, Inc. – septic variances.

Daniel Johnson, R.S., presented, and a hearing was conducted to consider variances from Title 5 for a sewage disposal

system plan designed by Daniel Johnson, R.S., plan J-2216, dated May 4, 2009 and revised June 30, 2009, for the dwelling located at 116 Little Neck Road, Ipswich, Massachusetts.

Susan Hubbard questioned if abutter's were notified. Mr. Johnson provided the certified mail receipt cards to the Board.

This is an existing one (1) bedroom dwelling that failed a Title 5 inspection on March 7, 2009. The property includes shallow groundwater; at 44 inches, and steep slopes.

The design plan is for a mounded system with a retaining wall. The retaining wall is proposed at five (5) feet from the property line.

The following variances were requested:

- A 1 foot reduction in the separation between the estimated seasonal high groundwater (ESHGW) and the bottom of leaching area; a 3 foot separation is provided.
- A reduction in setback from the septic tank to the slab foundation from 10 feet to 3 feet.
- To design the system for 1 bedroom in lieu of the 3 bedroom minimum.

Susan Hubbard asked Colleen for her thoughts. Colleen recommended granting the variances as requested subject to approval by the Department of Environmental Protection (DEP) for the one (1) bedroom septic design.

Susan Hubbard made a motion to approve the plan and grant the variances as requested with the following conditions:

- DEP approval must be obtained.
- A 1 bedroom deed restriction must be filed at the Southern Essex County Registry of Deeds with a copy submitted to the Health Department prior to issuance of the Disposal System Construction Permit.
- The property lines must be surveyed and staked prior to construction since the retaining wall is within 5 feet of the property line.
- The upgrade must be completed with the Certificate of Compliance issued by March 7, 2011.

Chuck Hill seconded the motion. The motion passed unanimously.

6:25 – Hearing - Ian Bayliss – 12 Charlotte Road – represented by Gateway Consultants – septic variances.

John Judd, P.E. was present and a hearing was conducted to consider variances from Title 5 for a sewage disposal system plan designed by John Judd, P.E., plan 3053, dated June 9, 2009 and last revised June 29, 2009, for the dwelling located at 12 Charlotte Road, Ipswich, Massachusetts.

This is an existing three (3) bedroom home. The system failed a Title 5 Inspection on May 11, 2009. The current septic tank will be reused since it was installed in 2000 and found to be in good condition by the inspector.

One testpit was done for the design and two testpits were done previously in 2000. Mr. Judd reported that soils found in all three (3) testpits were consistent.

The following variances were requested:

- A 1 foot reduction in the separation between the leaching area and estimated seasonal high groundwater (ESHGW). A 4 foot separation will be provided. This reduction is needed to accommodate the existing plumbing.
- To allow the use of 1 testpit within the proposed leaching area.

Susan Hubbard asked Colleen for her thoughts. Colleen recommended the variances be granted.

Chuck Hill made a motion to approve the plan and grant the variances as requested with the following conditions:

- The installer must be certified by Infiltrator.
- The upgrade must be completed with the Certificate of Compliance issued by May 11, 2011.

Susan Hubbard seconded the motion. The motion passed unanimously.

6:26 – Hearing - Glenn Wood – 138 Argilla Road – represented by H.L. Graham Associates, Inc. – septic variance.

Gerald McDonald, P.E., presented and a hearing was conducted to consider variances from Title 5 for a sewage disposal system plan designed by Gerald McDonald, P.E., plan 07-713, dated May 7, 2009 and last revised June 30, 2009, for dwelling located at 138 Argilla Road, Ipswich, Massachusetts.

This is a voluntary upgrade of an existing four (4) bedroom dwelling. The following variances were requested:

- A reduction in the setback from the septic system to the ACEC from the 150 feet to 98 feet.
- Use of soil testing results that are greater than two years old; from May 15, 2007.

Susan Hubbard asked Colleen for her thoughts. Although much of the property is more than 150 feet from the ACEC, the only soils that perched are within the ACEC buffer zone. Colleen felt this was a good plan and recommended approval with the condition that the installer is certified by Cultec.

Susan Hubbard made a motion to approve the plan and grant the following two (2) variances from the Ipswich Board of Health Septic System Regulations:

- A reduction in the setback from the septic system to the ACEC from the 150 feet to 98 feet.
- Use of soil testing results that are greater than two years old; from May 15, 2007.

The variances were granted with the condition that the Installer must be certified by Cultec. Chuck Hill seconded the motion. The motion passed unanimously.

6:30– Hearing - Fred and Martha Wells – 24 Greenspoint Road – 1 year extension on Disposal System Construction Permit.

Fred Wells was present and a hearing was conducted to consider a request for a one-year extension on the Disposal System Construction Permit, # 05-15. As required by Title 5, 310 CMR 15.000, the request was received prior to the expiration date of the existing permit.

On July 10, 2006, Disposal System Construction Permit # 05-15 was granted for the construction of a septic system designed by John Judd P.E., plan #1638, plan date March 16, 2000, revision date May 23, 2006 for 24 Greenspoint Road, Ipswich, Massachusetts.

In accordance with the State Environmental Code Title 5, section 15.020(2), all systems for which a Disposal System Construction Permit has been issued shall be completed, and the Certificate of Compliance shall be obtained, within three (3) years of issuance of the permit. The Permit and any variances or local upgrade approvals from 310 CMR 15.000 allowed therewith, shall expire if the work authorized by it is not completed within the three (3) year period unless a one (1) year extension is granted prior to the expiration of the original permit. A request for an extension was received by the Health Department on June 12, 2009.

Susan Hubbard made a motion to grant a one (1) year extension since this is a voluntary upgrade and the property is not under agreement to be sold but is still on the market. The Disposal System Construction Permit has an expiration date of July 10, 2010. No additional extensions can be granted. After July 10, 2010, the Disposal System Construction Permit (DSCP) will expire and new engineered septic plans designed to meet both current Title 5 regulations and Ipswich Board

of Health regulations, will need to be submitted to the Health Department if the new system is not installed. Chuck Hill seconded the motion. The motion passed unanimously.

6:35 – Hearing - William and Jacqueline Boch – 28 North Ridge Road – represented by H.L. Graham Associates, Inc. – septic variances.

Gerald 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 09-902, dated June 3, 2009 and last revised June 23, 2009, for the dwelling located at 28 North Ridge Road, Ipswich, Massachusetts.

At the June 10, 2009 Board of Health meeting, Gerry McDonald, P.E., Larry Graham, P.E., and William and Jacqueline Boch were present and a hearing was held, upon the homeowner's request, to determine the number of bedrooms in the dwelling located at 28 North Ridge Road, Ipswich, Massachusetts. Their intent was to upgrade their septic system and have it designed for three (3) bedrooms. It was the decision of the Board that the dwelling could be considered a three (3) bedroom dwelling since the septic design would not be altered significantly whether it was for a two (2) or three (3) bedroom dwelling.

A three (3) bedroom septic design was presented to the Board.

Susan Hubbard questioned if abutters were notified. Abutters were notified but none were present at the meeting.

Colleen raised her concern regarding the ownership of Duck Way since re-grading of it is proposed in half of the private undeveloped way, as documented in her June 23, 2009 plan review letter. On July 2, 2009, Colleen sent an email to the designer and requested proof of a deed to be supplied at the July 13, 2009 meeting. Colleen felt a deed would show if the grantor reserved the fee to Duck Way. If the applicant does not have the rights to Duck Way then two (2) additional property line variances would be needed and the plan revised to provide a retaining wall. If the property line variances are required then abutter's need to be notified before the hearing can be conducted.

A deed was provided by Gerry McDonald for review by the Board. Additionally, Gerry McDonald said the proprietor's of Great Neck were notified of the proposed re-grading.

The Board reviewed the deed and concluded that the Boch's owned the rights to the fee in Duck Way to the middle of the road. No conditional restrictions were outlined.

The septic design presented incorporates a Presby system which needs a minimum of 400 square feet of leaching area. The following variances were requested by Gerry McDonald:

- A 2 foot reduction in the separation between the leaching area to estimated seasonal high groundwater (ESHGW) with the use of a Presby Enviro-septic leaching system. A 2 foot separation is provided
- To allow the leaching area to be in an area having less than 4 feet of naturally occurring pervious soil with the use of a Presby Enviro-septic leaching system. Thirty two (32) inches (2.67 feet) is provided.
- A reduction in setback from the leaching area to the coastal bank from 50 feet to 34 feet.
- A reduction in setback from the septic tank to the coastal bank from 25 feet to 12 feet.
- A reduction in setback from the leaching area to the cellar wall from 20 feet to 6 feet.
- A reduction of design flow rate from 150 gallons/bedroom/day to 110 gallons/bedroom/day.
- A reduction in setback from the leaching area to the coastal bank from the 100 foot local requirement to 34 feet.

- To allow the system to be located within the 150 foot buffer zone of the ACEC. The septic tank/pump chamber and leaching area will be 98 feet and 117 feet; respectively, from the ACEC.

Susan Hubbard asked Colleen for her thoughts. Colleen recommended approving the variances subsequent to approval from the Conservation Commission and DEP.

Susan Hubbard made a motion to approve the plan and grant the variances requested with the following conditions:

- DEP approval.
- The DEP approval must be filed at the Southern Essex County Registry of Deeds with a recorded copy provided to the Health Office prior to issuance of the Certificate of Compliance.
- Conservation Commission approval.
- A 2 year Operations & Maintenance contract for the Presby Enviro-septic system must be submitted to the Health Office prior to the issuance of the Disposal System Construction Permit.
- A Lifetime Maintenance restrictive covenant for the Presby Enviro-septic system must be filed at the Southern Essex County Registry of Deeds with a recorded copy provided to the Health Office prior to the issuance of the Disposal System Construction Permit.
- The Installer must be certified by Presby Environmental.
- The Installer must provide a bill of lading certifying the sand meets ASTM C-33.
- The Installer must provide a completed "System Installation Form" to the Health Office before the Certificate of Compliance can be issued.

Chuck Hill seconded the motion. The motion passed unanimously.

6:46 – Hearing - Diane Stewart – 4 Adeline Drive – Title 5 inspection report.

Diane Stewart was present and a hearing was held to discuss the Title 5 inspection report, dated May 30, 2009, and the order to have an observation hole excavated at 4 Adeline Drive for the purpose of determining the estimated depth of high groundwater and its potential impacts upon the existing septic system.

Colleen Fermon provided the history of the property. A Title 5 inspection was conducted on May 30, 2009 by N.Timothy White. The inspector passed the system. Subsequently, Colleen reviewed the report and the corresponding septic file and found groundwater information from 1998 that made her question the passing determination. Colleen contacted the Mr. White and spoke with him at length. She determined that he did not look at any files other than 4 Adeline Drive since he had an engineered plan from 1992. He did not find soil testing from 1998 that was in the 4 Adeline Drive file or 2 the Alderson Drive file (created from 4 Adeline Drive). He subsequently questioned why the 1998 testing should supersede the 1992 plan. Colleen discussed this with Mr. White and explained to him that it should supersede the 1992 testing since high groundwater is determined by redoximorphic features under current Title 5 regulations and that prior to 1995 that was not the case; therefore, pre-1995 groundwater information needs to be viewed carefully. If there is more recent soil information on the lot or on an abutting property, that should be weighed more heavily. Since Colleen has had this conversation with Mr. White in the past she said she would get a written response from DEP to provide so that he could completely understand what he needs to do to determine high groundwater for pre-1995 systems.

The Title 5 inspection report indicated that the estimated depth to groundwater is greater than ten (10) feet. In addition, the report indicated that the inspector obtained high groundwater information from the system design plans on record which has soil evaluation data from April 22, 1992. As part of the high groundwater evaluation, the inspector should also check with the Ipswich Health Office to see if there is groundwater information on file. The Board of Health records indicate the following:

The file for 4 Adeline Drive has groundwater information from a soil evaluation conducted on April 30, 1998, prior to the land being divided to create 2 Alderson Drive. The estimated depth to high groundwater was determined to be forty eight (48) and fifty five (55) inches below grade. Since pre-1995 soil testing does not take into account redoximorphic features, the soil testing information from 1998 needs to be considered and should be adjusted, as appropriate, to reflect elevation differences or other factors that may affect the estimated high ground water elevation on the property. The bottom of the leaching system is more than nine (9) feet below grade while the estimated depth to high groundwater was determined to be forty eight (48) and fifty five (55) inches below grade.

In a letter dated June 15, 2009, the homeowner, Diane Stewart, was informed that the Health Office reviewed the inspection report generated from the May 30, 2009 inspection and the Health Agent determined that the report did not adequately the depth to groundwater.

The Department of Environmental Protection (DEP) agreed with Colleen as outlined in the email, presented to the Board, from Claire Golden stating the inspector must note the estimated depth to seasonal groundwater which is the same groundwater as determined through redoximorphic features. To do so, the inspector must rely on all available information: soil testing, landscape features, drainage (including sump pump) features, monitoring wells, etc. Since pre-1995 soil testing did not take into account redoximorphic features, the information from such testing should carry low weight in the analysis unless that is the only information available in that area. Soil testing information from adjacent sites should be adjusted, as appropriate, to reflect elevation differences or other factors that may affect the estimated gw elevation on the property being inspected.

The inspector has agreed to follow what DEP has said in the future. Mr. White informed Colleen that he will not be doing anything else for the owner since their relationship is not good at this point.

Ms. Stewart believed there was much variation in ground water in surrounding lots and therefore felt Mr. White's data to be valid. She said that up to one hundred and fifty (150) different soil types can be in any given area.

The Health Agent reviewed the report and questioned groundwater based on data from 1998 but groundwater was significantly higher then. Most of the soil information for surrounding properties is from pre 1995 (prior to changes in Title 5 Regulations). Furthermore, changes occurred to this property when the new development went in.

Ms. Stewart is appealing the letter dated June 15, 2009 asking her to do a deep hole test to confirm high groundwater. Ms. Stewart questioned how the Board could overrule a determination by an Inspector recommended by the town. Colleen Fermon clarified that the Town of Ipswich does not recommend Septic System Inspectors. Per Board of Health Regulations, 9.1, Title 5 system inspectors certified by The Department of Environmental Protection (DEP) shall be licensed by the Board of Health to work in Ipswich. A list of inspectors permitted in Ipswich is provided to constituents as a courtesy but inspectors are not recommended by the town. Additionally, it was noted by the Board that having a license or a permit does not guarantee work will be done correctly.

Susan Hubbard made a motion that the Title 5 inspector did not adequately address the high groundwater elevation question on the report. In order to provide a complete answer to the question, two (2) options were given to the owner;

1. Hire a licensed Ipswich septic system inspector, soil evaluator, or an engineer to evaluate your property and provide additional information to the Health Agent as to why the high groundwater found on the abutter's property should not be considered for your property and why the system has passed the inspection.
2. Arrange for an observation hole to be excavated so it may be evaluated for high groundwater by a soil evaluator.

Chuck Hill seconded the motion. The motion passed unanimously.

The Board told Colleen Fermon to request Timothy White to attend the Board of Health meeting on August 10, 2009 to discuss Title 5 Inspection reports for 8 Pine Street and 4 Adeline Drive. At the hearing, he will be given an opportunity to be heard regarding how he is determining high groundwater.

7:10– Hearing - Katherine Atkinson – 8 Pine Street – order for a confirmatory test pit for groundwater determination.

Larry Graham, P.E., and Katherine Atkinson presented; and a second hearing was conducted, upon the homeowner's request, to discuss the Title 5 inspection report since she had a licensed engineer provide groundwater and elevation information for the area.

At the June 10, 2009 Board of Health meeting, Katherine Atkinson discussed the Title 5 inspection report, dated April 18, 2009, and asked the Board to withdraw the order to have an observation hole excavated at 8 Pine Street for the purpose of determining the estimated depth of groundwater and its potential impacts upon the existing septic system.

The Health Office received an inspection report from N. Timothy White generated from his April 18, 2009 inspection of the septic system located at 8 Pine Street. The inspector gave a pass to the system but Colleen questioned the groundwater based on abutter information and determined that the report did not adequately convey the depth to groundwater.

The report indicated that the estimated depth to groundwater is greater than 10 feet. In addition, the report indicated that the inspector checked with the Ipswich Board of Health as part of the determination of groundwater elevation. Colleen noted that the Health office records indicate the following:

10 Pine Street- The estimated depth to groundwater was determined to be forty two (42) inches below grade. This information is a result of a soil evaluation conducted on August 24, 1999. No soil testing information is on file at the Health Department for 6 Pine Street or 12 Pine Street.

In a letter dated May 7, 2009 Colleen stated that, based on the soil information from 10 Pine Street, the estimated depth of groundwater indicated on page 11 of the report, was incorrect. Even with a change in elevation she did not believe the pit bottom is above groundwater. The pit is fifteen (15) inches below grade and six (6) feet deep. She required that an observation hole be excavated at 8 Pine Street for the purpose of determining the estimated depth of groundwater and its potential impacts upon the existing septic system.

It was the decision of the Board that the Title 5 inspector did not adequately address the high groundwater elevation question on the report. In order to provide a complete answer to the question, the Board of Health gave Ms. Atkinson three (3) options;

1. Have a second inspection from a licensed Ipswich septic system inspector conducted.
2. The septic system inspector, Timothy White, can provide additional information to the Health Agent to explain why the high groundwater elevation found on the abutter's property should not be considered for the Atkinson property and provide reasons as to why he believes the system passed the inspection.
3. Arrange for an observation hole to be excavated so it may be evaluated for high groundwater by a soil evaluator.

Larry Graham, P.E. was hired to look into the groundwater at 8 Pine Street. Mr. Graham conducted a field review and provided groundwater and elevation information for the area.

He provided a letter to the Board outlining that he reviewed USDA soil survey maps, surveyed points on the property and viewed the leachpit. Mr. Graham came to the following conclusions:

1. The soil survey of Essex County established groundwater at forty two (42) inches. The sandy soils make it more difficult to determine groundwater since there are sand and gravel pits that are high above the water table. These are deep soils that have a rapid permeability and a very low water capacity; therefore, it can be expected to have a water table of six (6) feet or deeper. Here, we are probably looking at seventy two (72)

- inches or deeper. Mr. White found groundwater at ten (10) feet and mentioned forty two (42) inches on ten (10) Pine Street but ignored abutter's high groundwater. Mr. Graham thinks the high groundwater elevation determined in 1999 was twelve (12) inches too high, and therefore; the system should have passed inspection.
2. The elevation of Pine Street peaks out at ninety eight (98) inches then goes down. If this was the same in 1999 there would have been breakout in these areas. They wouldn't be able to follow the sandy soil. If groundwater table had been 98.5 breakout would have occurred. The driveway is located at 97.5 feet and there has never been any visible breakout.
 3. The cellar is two (2) feet above the 98.5 level and no water has appeared except from the bulkhead and there is no sump pump.
 4. A review of the pit was conducted. After the leach pit was opened Mr. Graham verified that that the bottom of the pit was five (5) inches lower than the level determined in the April 18, 2009 Title 5 report from Tim White. Mr. Graham concluded that the groundwater was not impacting the component.

On June 24, 2009 Colleen met with Mr. Graham to discuss his findings. At that time Mr. Graham felt high groundwater could be at the bottom of the pit or two (2) feet above but wanted to look at the road elevation. He subsequently submitted a letter on July 9, 2009 with his opinion.

Colleen reviewed the files for 8 and 10 Pine Street in preparation for the meeting and found a third (3rd) testpit done on December 19, 2002 at 10 Pine Street. Groundwater at was documented at thirty nine (39) inches; which is higher than the forty two (42) inches documented in 1999. Colleen disagreed with Mr. Graham's assumption that the high groundwater elevation determined in 1999 was twelve (12) inches too high since Colleen witnessed a confirmation of groundwater via a deep hole on 2002 at 98.66. Colleen was sure where high groundwater is on 10 Pine Street. The unknown is where the elevation of groundwater is at 8 Pine Street.

Based on contours and adjusting the elevation of high groundwater with the contours, the pit is two (2) feet into groundwater. Assuming all soil is sandy, groundwater would be at the bottom of the pit or slightly above the bottom of the pit, based on soil testing from 1995 (98.5) and 2002 (98.66); respectively. Although Mr. Graham provides additional information and assumptions, Colleen did not feel he confirmed that high groundwater is below the bottom of the leach pit. He only states that he "thinks" the high groundwater found in 1999 was too high. The most reliable method of determining high groundwater is to excavate a deep hole. Groundwater levels vary from week to week and year to year. When testing was conducted there may not have been standing or weeping water since it was not at the highest groundwater level at that time. Although soil maps give an idea of where water may be it is not as conclusive as a deep hole. Additionally, groundwater elevations can vary with ground elevations depending on the types of soils found. Colleen still questioned where groundwater is on 8 Pine Street and without a deep hole excavation there is no clear cut answer.

Susan Hubbard felt the homeowner did as the Board requested and providing a professional opinion from an engineer. Additionally, she felt the Board was covered by having an opinion rendered by Mr. Graham on record.

Susan Hubbard made a motion to accept the engineer's information and determine that the system serving 8 Pine Street passed inspection. Chuck Hill seconded the motion. The motion passed unanimously.

7:35– Hearing - Stephen Harris – 195 Topsfield Road – septic system upgrade.

Stephen Harris presented, and a hearing was conducted since he failed to comply with the Board of Health order, issued on September 8, 2008, to have the new septic system installed, with the Certificate of Compliance issued, by December 31, 2008.

Previously, Mr. Harris asserted that he did not have sufficient funds to apply for a loan to finance the septic system upgrade. It was the decision of the Board to grant another extension. Mr. Harris was ordered to attend the June 2009 Board of Health meeting to give an update on his financial situation and provide a timeframe for bringing the property into compliance.

Colleen presented a letter that Mr. Harris provided to the Health Agent on the day of the meeting, June 8, 2009. In the letter Mr. Harris stated that he would be unable to attend the meeting due to other obligations. The Board reviewed his letter in which he reported his impending divorce and financial difficulties.

Since Mr. Harris had not shown good faith in meeting any timeframes set by the Board of Health for upgrading the failed septic system, it was the decision of the Board to order Mr. and Mrs. Harris to attend the July 13, 2009 Board of Health meeting. They must either provide the Board with documentary proof of financial hardship or provide a timeframe for completion of the septic upgrade by December 15, 2009. The following was considered acceptable evidence of financial hardship:

- 1.) Court documentation of impending home foreclosure.
- 2.) Unemployment filings with the state of Massachusetts.
- 3.) Court documentation proving divorce proceedings are underway.

If documentary evidence of severe financial hardship or a timeframe for completion of the septic upgrade by December 15, 2009 is not given; the Board of Health would issue an order condemning the dwelling and an order them to vacate the premises.

At the July 13, 2009 Board of Health meeting Mr. Harris explained that he has begun divorce proceedings and filed the appropriate paperwork with the court on July 2, 2009. Mr. Harris could not provide documentation proving divorce proceedings are underway as it takes the court two (2) weeks to process paperwork. Financially he will not be able to keep the home and he has contacted a realtor who will be putting it on the market to be sold.

It was the decision of the Board to have Mr. Harris attend the January 2010 Board of Health meeting to give an update on where he is in the process of selling the home and to provide a timeframe for bringing the property into compliance

7:40– Hearing - Robert Martel- 3 Blair Drive - represented by Atlantic Engineering and Survey Consultants- soil testing results extension

Colleen presented, and the Board of Health heard a request for a variance to Ipswich Board of Health Septic System Regulations, provision 8.9; Soil testing conducted for new construction or upgrades shall be valid for two years from the date of testing. Soil testing was conducted on April 9, 2003.

The proposed new owner would like to use this testing for a septic system upgrade plan although the testing occurred more than two (2) years ago.

The septic plan was submitted and not approved due to some technical deficiencies in the plan. The revised plan has only been partially reviewed at this time but it is apparent that a request for the use of one (1) testpit only within the leaching field will be needed.

Susan Hubbard asked for Colleen's thoughts. Colleen recommended the Board consider granting the variances, although the plan has not been fully reviewed, to allow the property to transfer without having to come back to the Board next month. Colleen will continue to review the plan before final approval is granted. There were four (4) testpits done within the vicinity of the proposed leaching area so she was comfortable with only one (1) testpit being within the proposed leaching area. The leach area is small because they had a four (4) minute per inch perc rate and the system is for two (2) bedrooms. Additionally, the property has been vacant for years.

Susan Hubbard made a motion to grant the variances since there have been no changes to the property since the date of soil testing. Said variance extends the validity of the soil testing conducted on April 9, 2003 and allows the soil testing information to be used for the basis of a septic design until December 31, 2009. Additionally, she made a motion to grant a variance, under Local Upgrade Approval, to allow one (1) test pit within the leaching area since there were three (3) additional test pits conducted on the property. This variance was granted with the condition that a confirmatory test pit is done at the time of the septic system installation and is conducted by a soil evaluator and witnessed by a representative of the Board of Health. Colleen Fermon will finish the review of the plan and approve it when it is deemed to meet all requirements of Title 5 and Board of Health Septic System Regulations, except for the provisions for which variances were granted. Chuck Hill seconded the motion. The motion passed unanimously.

7:45– Hearing - Kathleen and Barry Low – 55 Argilla Road– septic system upgrade

Colleen Fermon presented information provided by Barry Low since he was unable to attend due to a conflict with his work schedule. A hearing was conducted since he did not comply with the Board of Health order, issued on May 19, 2008, to upgrade the septic system by June 15, 2009.

Mr. Low asserted that he was out of work for nine (9) months and needed time to procure financing. He requested an extension. Mr. Low intends to demolish the existing dwelling and pour a new foundation this year. It is his goal to install the septic system in the spring of 2010. He would like a one (1) year extension; until June 15, 2009.

Previously, on June 4, 2007, a hearing was conducted to consider his request for a variance to the Title 5 requirement of upgrading the septic system within two (2) years of a failed Title 5 inspection. The Board of Health granted an extension until April 30, 2008 for the upgrade of the system, with the condition that the dwelling remained unoccupied with power and water turned off.

Subsequently, a hearing was conducted on May 5, 2008, to consider variances from Title 5 and Ipswich Board of Health regulations for a sewage disposal system plan designed by Steven Sawyer, P.E., plan 064125, dated December 31, 2007 and last revised April 2, 2008, for the dwelling located at 55 Argilla Road, Ipswich. The Board of Health approved the sewage disposal system plan on May 5, 2008 with the condition that the system was to be installed by June 15, 2009.

Based on the explanation given by Mr. Low that he had been unemployed for nine (9) months so he could no longer finance the installation prior to the June 15, 2009 deadline; and since the dwelling remains unoccupied, Susan Hubbard made a motion to grant a one (1) year extension. The system must be installed with the Certificate of Compliance issued by June 30, 2010. Chuck Hill seconded the motion. The motion passed unanimously.

7:50 - Report of the Health Agent:

Maureen Lee of Food Service Solutions – contractor for food establishment inspections:

Maureen will attend the August 2009 meeting to meet the Board and to discuss issues that have occurred with Ipswich food establishments.

White Farms: After an inspection was conducted by The Food Inspector it came to the attention of the Health Department that White Farms is serving hard ice cream. They are not currently permitted for the sale of hard ice cream and to do so would require compliance with a different set of regulations than they are currently operating under. Additionally, the store is unclean and there are plumbing issues that must be addressed.

10 Charlotte Road: In a letter dated July 9, 2009, the homeowner's state that their current financial situation is a direct result of the Town, the previous owner and the installer; all three parties bear responsibility for the septic failure.

Next Board Meeting: The next meetings of the Board of Health were scheduled for August 10, 2009 and September 14, 2009 at 6pm.

Adjourn: Susan Hubbard made the motion to adjourn at 8:00 PM. Chuck Hill seconded the motion. The motion to adjourn passed unanimously.

Susan Hubbard, Chairperson

Charles Hill, Board Member