

**Board of Health Minutes**  
**Monday, April 5, 2010, 6:00 PM**  
Meeting Room C, Town Hall  
25 Green Street, Ipswich, MA

**Call to Order:** Susan Hubbard called the meeting to order at 6:07 PM.

**Members attending:** Susan Hubbard, Chuck Hill, and Dr. Spencer Amesbury.

**Others attending:** Health Director Colleen Fermon, Health Administrative Assistant Jennifer Brown, Dr. William Jack, Don Greenough, Esq., Jamie Fay, Seth LaJoie, P.E., John Morin, P.E., Keith Wetter, Larry Graham, P.E., Judith Hanson, Paul Tenant, Mary Tenant, Patrick McCormack, Leslie McCormack and Isaac Rowe, R.S.

**Citizens Queries:** None.

**Minutes:** Dr. Amesbury made a motion to approve the December 7, 2009 minutes. Chuck Hill seconded the motion. The motion passed unanimously. Susan Hubbard made a motion to approve the March 1, 2010 minutes. Dr. Amesbury seconded the motion. The motion passed unanimously.

**6:08 Public Hearings:**

**Recombinant DNA Regulation:**

The following proposed regulation was advertised in the Ipswich Chronicle for two (2) consecutive weeks, on March 11, 2010 and March 18, 2010, with the last advertisement printed a minimum of 14 days prior to the hearing.

Chair, Susan Hubbard, set ground rules for the hearing:

1. The Board will hear all comments regarding the Recombinant DNA Regulation. A limit of 5 minutes will be given to each person at first. Written comments will be accepted through April 19, 2010.
2. There will be no decision to adopt the regulation at this meeting since New England Biolabs and others will likely comment and the Board must review all comments prior to making a final decision. The discussion will be continued until the May 3, 2010 meeting.

Ms. Hubbard asked if anyone would like to address the Board.

Attorney Greenough approached the Board and stated he lives at 32 Fellows Road and that he is representing New England Biolabs. In general, New England Biolabs has no objection to regulating the use of recombinant DNA. Many communities have bylaws or regulations that regulate recombinant DNA. New England Biolabs is in agreement that all those who work with recombinant DNA must comply with NIH guidelines and that Biosafety Level 4 projects should be prohibited in Ipswich. The Board should also consider prohibiting Biosafety Level 3 projects too.

The concern is that there is a lack of understanding of New England Biolabs's business and the impact the regulation will have on New England Biolabs and the effect that will have attracting new business to the town.

Attorney Greenough stated that many procedures that are defined as exempt by NIH guidelines and pose no public health risk. New England Biolabs conducts hundreds of such procedures each day that are exempt under NIH guidelines. Under the proposed Board of Health regulation permitting would be required. This would greatly impact the day-to-day business of New England Biolabs.

Dr. William Jack, Research Director for New England Biolabs, approached the Board. Dr. Jack has been with New England Biolabs for (twenty two) 22 years. He attested that during the last five (5) years New England Biolabs has done one (1) experiment that was more than a Biosafety Level 1.

Additionally, New England Biolabs has an oversight committee (IBC) that meets annually to review all Biosafety containment levels.

Dr. Jack questioned if the Board of Health understood the definition of “exempt” under the NIH guidelines. Over the course of weeks and months New England Biolabs uses thousands of organisms that are all considered exempt under NIH guidelines.

Attorney Greenough stated that other towns (not specified) require exempt activities to be conducted at Biosafety Level 1 and other towns require registration versus the permitting of exempt organisms and Biosafety Level 1 projects. New England Biolabs requested no permit requirement for NIH exempt procedures.

Attorney Greenough also suggested that there is some ambiguity in the draft proposal pertaining to the definitions of “procedures” and “project”. These should be better defined so that both parties know what to expect.

Mr. Jamie Fay, Chairman of the Finance Committee, approached the Board. Mr. Fay is a neighbor to New England Biolabs. Mr. Fay stated the Finance Committee discussed the Recombinant DNA regulation with the Health Agent at a recent budget hearing. The Committee has a high appreciation for what New England Biolabs adds to the community and there is some apprehension regarding how the proposed regulation will impact their business. New England Biolabs has a significant financial impact on the community and the Finance Committee does not want to discourage biotechnology in town.

Mr. Fay questioned what motivated the Board of Health to adopt a Recombinant DNA regulation.

Susan Hubbard stated the idea of a Recombinant DNA regulation was first addressed when New England Biolabs was coming to Ipswich. The Board of Health was looking at what other town’s had for Recombinant DNA regulations when New England Biolabs came to town. Susan Hubbard added that at that time a number of drafts from other towns had been reviewed by the Board of Health. Recently, the Town Manager asked the Board of Health to revisit this again in an effort to attract other biotechnology firms. The rationale behind this was that without having any regulation in place, biotechnology firms may not consider Ipswich since there is potential for the town to adopt a restrictive regulation after they are in town.

Mr. Fay felt it was unnecessary for Ipswich to prohibit Biosafety Level 3 labs in town. He thought this would discourage prospective businesses from locating in Ipswich. He thought the Board should look at non RDNA work also.

Susan Hubbard closed the public hearing but the hearing will be continued at the next regularly scheduled meeting of the Board of Health; on May 3, 2010. The Board of Health will notify New England Biolabs prior to the meeting.

### **Fee schedule changes:**

The following proposed changes were advertised in the Ipswich Chronicle on March 11, 2010 and March 18, 2010.

**RDNA Permit fee:** It was the decision of the Board to postpone the hearing for the RDNA Permit fee until the May 3, 2010 meeting.

**Beach Permit fee:** Susan Hubbard read the proposed change. Last year 105 CMR 445.000: Minimum Standard for Bathing Beaches, State Sanitary Code, Chapter VII was amended to include permitting and signage requirements for bathing beaches. As of May 28, 2010, no person shall commence the operation of a bathing beach without a valid permit from the Board of Health. A fifty (\$50) permit fee was proposed. Susan Hubbard asked for comment. No comments were given. Susan Hubbard made the motion to accept the proposed fee schedule change. Chuck Hill seconded the motion. The motion passed unanimously.

### **Employment of Consultant Regulation:**

The proposed Employment of Outside Consultants Regulation was advertised in the Ipswich Chronicle on March 11, 2010 and March 18, 2010. Susan Hubbard read the proposed regulation. The Ipswich Board of Health may impose reasonable fees for the employment of outside consultants, engaged by the Board of Health, for review of any application submitted to the Board of Health pursuant to its regulations adopted under Chapter 111, Section 31 of the Massachusetts General Laws, the requirement of the Subdivision Control Law, the State Environmental Code, any of its regulations, or any other State or Town statute, by-law, or regulation, as they may be amended or enacted from time to time.

Funds received by the Board pursuant to this regulation shall be deposited with the Town Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board of Health without further appropriation as provided in Massachusetts General Laws Chapter 44, Section 53G. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the permit application.

The Board of Health shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant and the amount of the fee to be charged to the applicant. Such notice shall be deemed to have been given on the date it is mailed or delivered.

The applicant may appeal the selection of the outside consultant to the Ipswich Board of Selectmen, who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of an educational degree in or related to the field at issue, or three (3) or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Selectmen, and a copy received by the Board of Health, so as to be received within ten (10) days of the date of the notice of the selection of the consultant. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

Susan Hubbard asked for comment. No comment was given. Susan Hubbard made the motion to accept the proposed regulation. Chuck Hill seconded the motion. The motion passed unanimously.

**6:37 – Hearing – Fred Ruzanski – 155 Topsfield Road -represented by Seth L. Lajoie and Associates, Inc. – septic variances.**

Seth Lajoie, 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 Seth Lajoie, P.E., plan L-210, dated December 7, 2009, and revised March 2, 2010, for the dwelling located at 155 Topsfield Road, Ipswich, Massachusetts.

Seth Lajoie stated the soil testing revealed class 2 soils. This is a voluntary upgrade for a five (5) bedroom dwelling. The existing system is in the front of the home. As proposed, the upgraded system will also be in the front of the home since the back of the property is on an incline and it would be more costly to locate the system there. Additionally, by keeping the system in the front of the home a gravity flow system can be used..

The following variances were requested:

- A 1 foot reduction in separation between the bottom of the soil absorption system (SAS) and estimated seasonal high groundwater (ESHGW). A 3 foot separation is provided.
- A reduction of design flow rate from 150 gallons/bedroom/day to 110 gallons/bedroom/day.

Susan Hubbard asked Colleen for her thoughts. Colleen felt the designer adequately explained why he felt this was the best approach for the placement of the system. Her only concern was that the water line must be located prior to construction to confirm that the water line is 10 feet from both the septic tank and the SAS and to see if the waterline and building sewer cross. If the water line and building sewer cross both must be class 150 pressure pipe. Colleen recommended granting the variances.

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

- 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 issuance of Disposal System Construction Permit.
- A 2 year Operations & Maintenance contract for the Presby Enviro-septic system to be submitted to the Health Department prior to issuance of Disposal System Construction Permit.

- The water line must be located prior to construction to confirm that the water line is 10 feet from both the septic tank and the SAS and to see if the waterline and building sewer cross. If the water line and building sewer cross both must be class 150 pressure pipe.
- The Installer must be certified by Presby Environmental.
- Installer must provide a bill of lading certifying the sand meets ASTM C-33.
- Installer must provide a completed “System Installation Form” to the Health Office before the Certificate of Compliance can be issued.

Susan Hubbard seconded the motion. The motion passed unanimously.

**6:40 – Hearing – Thomas Walsh – 85 North Ridge Road – represented by The Neve-Morin Group, Inc. –extension for soil testing results.**

John Morin, P.E. presented, and a hearing was conducted to discuss a variance to Ipswich Board of Health Septic System Regulations 8.9; which states that 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 to the Board before the results had expired.

Soil testing was conducted on May 28, 2008. The owner requested a one (1) year extension due to the downturn in the real estate market which has prevented him from moving forward with development plans for the property.

A septic plan was submitted in 2008 but not approved due to deficiencies in the submission. A revised plan was never submitted.

Susan Hubbard questioned whether any changes had been made to the site. No changes have been made to the property.

Susan Hubbard asked Colleen for her thoughts. Colleen recommended granting the extension since there have been no changes made to the property since the testing was conducted.

Dr. Amesbury made a motion to grant an extension since the downturn in the real estate market has prevented the owner from moving forward with final development plans for the property and no changes have been made to the property. Said variance extends the validity of the soil testing conducted on May 28, 2008 until December 31, 2011. Susan Hubbard seconded the motion. The motion passed unanimously.

**6:41 – Hearing – Keith Wetter – 6 Lakemans Lane –title 5 inspection variance.**

Keith Wetter presented, and a hearing was conducted to consider a variance from Ipswich Board of Health Septic Regulations, section 10.2. Section 10.2 requires that a septic system shall be inspected by an Ipswich licensed Title 5 Inspector whenever an addition or renovation to an existing building, excluding decks, is proposed that increases the footprint of the building and requires a building permit or occupancy permit from the building inspector. The inspection requirement shall be waived if a Certificate of Compliance was issued or a Title 5 Inspection was completed within the previous 3 years, or if the system is under an operation and maintenance contract.

Mr. Wetter proposed the addition of a garage and family room on the first floor and a bedroom on the second floor to be served by the existing septic system that serves the dwelling at 6 Lakemans Lane, Ipswich. Additionally, two (2) bedrooms must be eliminated to result in a total of three (3) bedrooms being maintained since the property is served by a septic system that was designed for three (3) bedrooms.

Mr. Wetter proposed to alter the existing floor plan to result in a total of three (3) bedrooms being maintained. Colleen met with his contractor, Chris Sullivan, on March 29, 2010 to discuss the changes. Colleen felt the proposed changes would achieve compliance.

Susan Hubbard asked Colleen for her thoughts. Colleen felt this property was a good candidate for a variance since the septic system was installed in 1996, the Health Department has an as-built on file, and the septic tank was pumped in 2004 and 2008 and no problems with the septic system were found at those times.

Dr. Amesbury made a motion to grant the variance and not require the Title 5 inspection for the proposed addition since the septic system was installed in 1996 and the septic tank was pumped in 2004 and 2008 and no problems with the septic system were found at those times. Susan Hubbard seconded the motion. The motion passed unanimously.

**6:43 – Hearing – Dana Hersey and Tim Hilton – 30 Mill Road – represented by H.L. Graham Associates, Inc. – extension for soil testing results.**

Larry Graham, P.E. presented, and a hearing was conducted to consider a variance to Ipswich Board of Health Septic System Regulations 8.9 for soil testing conducted on March 23, 2004 and April 26, 2005. Previously, an extension had been granted until December 31, 2006 for the 2004 testing. Ipswich Board of Health Septic System Regulations 8.9 states that soil testing conducted for new construction or upgrades shall be valid for two (2) years from the date of testing.

In the letter sent by Mr. Graham a two (2) year extension was requested for the March 23, 2004 testing results since there has been no changes made to the property. A variance for the testing conducted on April 26, 2005 was not in the variance request letter dated March 9, 2010 to the Board of Health but was verbally posed to the Board at the time of the meeting.

Mr. Graham attested that previously the property was to be divided into five (5) lots. One (1) lot was subsequently sold and final development plans for the remaining lots were never completed.

Dr. Amesbury made a motion to grant an extension since the owners have not moved forward with final development plans for the property and no changes have been made to the property since testing was conducted. Said variance extends the validity of the soil testing conducted on March 23, 2004 and April 26, 2005 until December 31, 2011. Susan Hubbard seconded the motion. The motion passed unanimously.

**6:45 – Hearing – Tim Hilton – 44 Mill Road – represented by H.L. Graham Associates, Inc. – extension for soil testing results.**

Larry Graham, P.E., presented, and a hearing was conducted to consider a variance to Ipswich Board of Health Septic System Regulations 8.9 for soil testing conducted on April 1, 2004 and April 15, 2004. Ipswich Board of Health Septic System Regulations 8.9 states that soil testing conducted for new construction or upgrades shall be valid for two (2) years from the date of testing.

Colleen reported that although soil testing was conducted on April 1, 2004 and April 15, 2004, no soils extensions were requested or granted after 2005 by the Board of Health.

Additionally, the property transferred in 2004 without the benefit of a Title 5 Inspection being conducted. Colleen will follow up with a letter to the homeowner.

Mr. Graham attested that he is in the process of designing a new system for the property. As proposed, the system will be in the same area as the soil testing conducted in 2004. No changes have been made to the site since the testing was conducted.

Susan Hubbard made a motion to grant an extension since the owner is ready to move forward with final development plans for the property and no changes have been made to the property since testing was conducted. Said variance extends the validity of the soil testing conducted on April 1, 2004 and April 15, 2004 until December 31, 2011 for the purpose of the septic design. Dr. Amesbury seconded the motion. The motion passed unanimously.

**6:50 – Hearing - Leon Piechowiak Trust – 14 James Road – represented by Judith Hanson of Coldwell Banker – title 5 inspection.**

Judith Hanson of Coldwell Banker presented, and a hearing was conducted, upon the request of the homeowner, regarding the Board of Health order issued on October 15, 2009 to re-inspect the septic system serving 14 James Road, Ipswich, Massachusetts six (6) months after the required repairs were completed.

As a result of an inspection report received by this office from a septic system inspector which indicated that the disposal system that serves the property conditionally passed inspection, the Board of Health ordered the owner to have an Ipswich licensed installer replace the pipe between the septic tank and the leaching pit and install a septic tank outlet tee.

Additionally, the owner was informed that the septic system must be re-inspected six (6) months after the repairs were completed to ensure the liquid level in the septic tank was due to the blocked pipe. A request was made by Ms. Hanson to be able to re-inspect the system prior to the six (6) month deadline since the home is under agreement to be sold and the financing is contingent on the system passing inspection.

Colleen reported that the Title 5 inspection was conducted on September 26, 2009 and the tank was pumped at the time of inspection. The pipe between the septic tank and the leaching pit was replaced and a septic tank outlet tee installed on November 6, 2009.

Colleen requested the March 2010 water readings be submitted at the meeting. The water records for February 2010 and March 2010 were submitted. Colleen felt that the water records indicated that the usage was minimal in March. February 2010 records, however; revealed more usage. No one is there on a day-to-day basis but there was enough usage to refill the septic tank and for discharge to the leaching system.

Colleen felt, based on the water records, that this was enough to determine if effluent is making it to the leaching field at the time of re-inspection. It would be reasonable to re-inspect the septic system at this point.

Susan Hubbard made a motion to modify the order and decrease the timeframe for the re-inspection since the system has received some usage in the last four and a half months and the owner is in the process of selling the home. The owner was permitted to re-inspect the septic system prior to May 6, 2010. Chuck Hill seconded the motion. The motion passed unanimously.

**6:55 – Hearing - Merrimack Valley Distributing Company – 84 Linebrook Road – represented by Edward Dick of Coldwell Banker – extension for soil testing results.**

Judith Hanson of Coldwell Banker presented, and a hearing was conducted to consider a variance to Ipswich Board of Health Septic System Regulations, provision 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 to the Board before the results had expired.

Ms. Hanson reported that there is currently a buyer for the property and that it is the buyer's intention to have septic design plans submitted to the Board of Health shortly. The buyer requested a one (1) year extension for soil testing conducted on May 6, 2008 to be used for the basis of the septic design. No changes to the property have been made since the date of soil testing.

Dr. Amesbury made a motion to grant an extension since there have been no changes to the property since the date of soil testing. Said variance allows the soil testing conducted on May 6, 2008 to be used for the basis of a septic design until December 31, 2011. Susan Hubbard seconded the motion. The motion passed unanimously.

**6:55 – Hearing - Paul Tenant and Mary Fidrocki – 4 Kimball Avenue – order to correct.**

Paul Tenant and Mary Fidrocki presented, and a hearing was conducted regarding the order to correct and the violations of 105 CMR 410.000: State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation issued on February 3, 2010 for 4 Kimball Avenue, Ipswich.

As a result of a complaint received by the Health Department, a housing inspection was conducted January 27, 2010, at 4 Kimball Avenue, Ipswich. A letter dated February 3, 2010, ordered the owners to begin necessary repairs for the correction of violations of 105 CMR 410.000: State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation.

The following violations were cited:

1. 410.351: Owner's Installation and Maintenance Responsibilities: One door to the sink cabinet is missing and the kitchen ceiling light has wires hanging from it.
2. 410.482: Smoke Detectors and Carbon Monoxide Alarms: The smoke detector in the front room and the smoke detector on the second floor at the top of the stairway are missing batteries.
3. 410.500: Owners Responsibility to Maintain Structural Elements: The kitchen ceiling has a large hole in it, the kitchen floor surface is worn off in numerous areas and the front room has a small hole in the ceiling.
4. 410.503: Protective Railings and Walls: The exterior front stairway has no handrail or guardrails. No guardrail encloses the front porch. The interior stairway handrail no longer has a smooth surface.

The owners were ordered to begin necessary repairs or contract in writing with a third party within five (5) days of receipt of the order for correction of the violations. They were ordered to make a good faith effort to substantially correct all violations within thirty (30) days of receipt of the notice.

Colleen reported that no repairs other than the violation of the smoke detectors were made within the timeframe set in the order to correct issued on February 3, 2010. The violation of the smoke detectors was corrected on March 10, 2010 as confirmed by Ipswich Fire Lieutenant, Rick Smith.

Colleen spoke with Mr. Tenant on March 3, 2010. At that time he said he wanted to address the violations cited after completing changes to the bathroom above the kitchen. Colleen asked him to provide a time-frame for the bathroom completion and when the other violations would be corrected. Mr. Tenant was to call Colleen back the following week with a time-frame once he hired a plumber. Mr. Tenant never called so Colleen left a message for him on March 12, 2010. Mr. Tennant did not responded to the March 12, 2010 message Colleen left to follow-up on the status of the repairs.

Colleen spoke with Mr. Tenant again on March 24, 2010. She asked him once more to provide a schedule to the Board of Health for the remaining violations since he had not made the corrections and more than a month and a half had passed. Colleen suggested that the owners appear before the Board if they wished to ask for the order to be modified or withdrawn. Colleen asked them to be prepared to provide the Board of Health with a timeframe for achieving compliance.

At the meeting the owners attested that it is their intention to address the violations cited after completing changes to the bathroom above the kitchen. Mr. Tenant said he has hired a plumber and he currently has building permit on site to address the violations. The contractor will be on site tomorrow to begin the repairs.

Colleen reported that both Building and Plumbing permits have been applied for to address the bathroom remodel only. At the time of the hearing no Building permit had been issued to address the violations cited. Mr. Fidrocki stated that the same contractor would correct the violations. Colleen provided the Board members with a copy of the building permit application.

Susan Hubbard informed the owners that setting a timeframe for compliance was necessary. She asked if six a (6) month time-frame was reasonable to achieve compliance. The owners agreed that six (6) months was a reasonable time-frame to achieve compliance.

Susan Hubbard said she would like require a re-inspection in three (3) months to ensure that progress is being made.

Susan Hubbard made a motion to modify the order and extend the timeframe for corrections. The owners were ordered to obtain compliance with 105 CMR 410.000 by October 5, 2010. An interim inspection must be conducted in three (3) months; in July 2010, to assess the status of the repairs. Dr. Amesbury seconded the motion. The motion passed unanimously.

**7:07 – Hearing - Leslie McCormack – Five Corner Café and Deli – 0 Central Street – handsinks.**

Leslie McCormack presented, and the Board heard an appeal to the decision made by the Health Agent regarding the need for an additional handsink at the proposed Five Corner Café and Deli.

The Five Corner Deli and Café is a new restaurant looking to open in Ipswich. Ms. McCormack has gone through the initial plan review process. Previously, during plan review it was determined that the cooks line needed to have a sink added to it for employee use while cooking. Colleen explained this to Ms. McCormack both in person and in letters dated March 17, 2010 and March 30, 2010. Ipswich Food Inspector, Maureen Lee also reviewed the plans and cited that no handsink was available to the cooks while they are working. She also felt this was necessary to achieve compliance.

In accordance with section 5-204.11 of the 1999 Food Code, a handwashing facility needs to be located in every food preparation, food dispensing, and warewashing area. As designed, the proposed floor plan does not comply.

Colleen asked Ms. McCormack to appear before the Board since they have come to an impasse on this issue.

The Board reviewed a proposed floor plan for the location of handwashing facilities.

Ms. McCormack stated that the previous food establishment did not have a handsink on the line. Colleen stated that to the best of her knowledge that was correct, however; when a property or a business changes, the new owner is required to bring the new business into compliance. This often results in the new owners having to make physical changes.

The owner claimed that adding a sink would be cost prohibitive so Colleen asked her to bring documentation to the Board meeting so the Board could take this under consideration. Ms. McCormack presented an estimate of \$4,500 to the Board for the installation of the handsink.

Colleen understood that the owner spent more money than anticipated on the restaurant, but she did not want to see them open without adequate handsinks and then have repeated violations or a foodborne illness outbreak.

Colleen voiced the following concerns. 5-205.11 of the 1999 Food Code requires a handwashing facility shall be maintained so that it is accessible at all times for employee use. The existing handsink is not accessible to the employees working the ranges, salamander, sandwich station, etc. The freezer at the end of the cook's line limits access to the handsink, and the space between the freezer and the sandwich unit is limited to 2 feet based on the floor plan submitted. Ms. McCormack indicated there is 33 inches between the 2 pieces with equipment. Even with the additional spacing, an employee working the sandwich unit across from the freezer limits the access to the handsink. If the sandwich unit door is opened then there is a barrier between the employee and the handsink. Based on the proposed floor plan, employees working the main food preparation area would have to leave their work station each time handwashing is needed.

As FC2-301.14 states, food employees shall clean their hands and exposed portions of their arms immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles and after touching bare human body parts other than clean hands and clean, exposed portions of arms; During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks; When switching between working with raw food and working with ready-to-eat food; and After engaging in other activities that contaminate the hands.

Ms. McCormack suggested turning the freezer to facilitate access to the handsink. Colleen thought this was a good approach but we still have the issue of the need for an additional handsink.

Employees who will be working in the interior part of the cook's line will not have adequate access to a handsink. Colleen felt that in order to comply with 105 CMR 590.000 Minimum Sanitation Standards for Food Establishments a hand sink needs to be added to the cooking line.

Colleen stated that the purpose of the plan review process is to build out potential problems. Both she and Maureen felt not having an additional handsink was a creating a real potential for future problems to occur.

Susan Hubbard suggested waiving the requirement for the additional handsink with the provision that if problems are cited at the time of inspection the installation of an additional handsink would be required. Dr. Amesbury concurred but added that this should be conditioned on rectifying the bottleneck area where the freezer is currently located.

Susan Hubbard made a motion that the additional handsink would not be required on the cooks line prior to opening but if a violation of improper handwashing or cross contamination are cited the additional handwashing facility will need to be installed.

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

### **7:25 – Hearing - Keith and Elissa Iwanicki– 112 Little Neck Road -represented by Mill River Consulting – septic variances.**

Isaac Rowe 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 Isaac Rowe, R.S., dated December 16, 2009 and revised on March 11, 2010, for the dwelling located at 112 Little Neck Road, Ipswich, Massachusetts.

Susan Hubbard asked if the abutters (110 Little Neck Road and 12 Chattanooga Road) were notified. Mr. Rowe provided the Board with the certified mail cards as proof the abutters were notified.

Mr. Rowe stated this is an existing four (4) bedroom dwelling that failed a Title 5 inspection on September 12, 2009. The soil testing results were fairly slow due to clay soils in the area. There is a significant slope (15-18 feet) between the beginning of the property and the beginning of the dwelling. The back of the property is relatively flat with a retaining wall. Because of this, the system was designed to fit the back of the property to keep the system as flat as possible.

Susan Hubbard questioned if this was the only alternative for the location of the system given the topography of the land. Mr. Rowe confirmed that this was the only option.

Mr. Rowe proposed a Waterloo Biofilter and Perc-Rite system design.

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 septic tank and the property line from 10 feet to 4 feet.
- A reduction in the setback between the leaching area and the property line from 10 feet to 4 feet.
- A reduction in the setback between the septic tank and the cellar wall from 10 feet to 2 feet.
- A reduction in the setback between the Waterloo Biofilter tank and the cellar wall from 10 feet to 2 feet.

- A reduction in the setback from leaching area and the cellar wall from 20 feet to 3 feet.
- A reduction of design flow rate from 150 gallons/bedroom/day to 110 gallons/bedroom/day.
- To allow the entire system to be within the 150 foot buffer zone of the ACEC.

Susan Hubbard asked Colleen for her thoughts. Colleen recommended granting the variances as requested. The only concern with the plan she had is the small boulder retaining wall by the septic tank. The final grade over the tank is at 54 but the wall (a few feet away) top elevation is 52. Mr. Rowe agreed that this was a concern. He proposed an elevation of 53 to be submitted on a revised plan for the retaining wall and the grade change. The top off wall elevation by the septic tank will be 5.3. An addendum will be submitted by the designer to the Health Agent for approval to address changes to the top of wall elevation and regarding down slope of the wall.

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

- Conservation Commission Approval.
- A 2 year Operations & Maintenance contract for the Waterloo Biofilter and Perc-Rite systems to be submitted to the Health Department prior to issuance of the Disposal System Construction Permit.
- A Lifetime Maintenance restrictive covenant for the Waterloo Biofilter and Perc-Rite systems 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 Disposal System Construction Permit.
- The property lines must be surveyed and staked along the retaining wall side and where the tank is within 4 feet of the property line. The survey must occur prior to construction.
- The top of wall elevation by the septic tank will be 53. An addendum will be submitted by the designer to the Health Agent for approval to address changes to the top of wall elevation and regrading down slope of the wall. Approval must be obtained prior to issuance of the Disposal System Construction Permit.
- The system must be installed with the Certificate of Compliance issued by September 12, 2011.

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

**213 High Street:** Mr. Parker did not appear at the hearing. The property transferred without benefit of a Title 5 Inspection being conducted. The owner signed an agreement with the Board of Health in June 2007 to upgrade the system within two (2) years from the date of the transfer; December 29, 2009. A septic plan was approved by the Board of Health in October 20, 2008. The property is currently on the market.

Colleen spoke with Mr. Parker on March 2, 2010. At that time Mr. Parker stated that he is interested in pursuing town sewer. Colleen asked him to contact the Utilities Department and call her back. Mr. Parker never called. Colleen confirmed that it is possible to extend the sewer main 250 feet but Mr. Parker would need to pay for the extension.

The homeowner is still living at the home and according to the water records supplied by the Utility Department; the water usage at the home has been steady.

**153 Argilla Road:** No one appeared before the Board. It was the decision of the Board to postpone the hearing until the May 2010 meeting.

### **7:35 - Report of the Health Agent:**

**Aquatic Therapy:** The pool was allowed to reopen since full compliance with 105 CMR 435.000 was demonstrated during a March 2010 re-inspection. At the March 1, 2010 Board meeting it was noted that Aquatic Therapy was advertising the use of ionization purified water. At the time of the meeting Colleen could not get an answer from the owners on whether or not this technology was in use. This process requires that testing for copper and silver occurs daily. The copper-silver ionizer was disconnected and will no longer be in use.

The appropriate test kit was needed to test chlorine levels. The test kit must be able to discern 0-.2 combined chlorine. The previous test kit could not be used to test combine chlorine since the color change was not specific enough. The proper test kit is now on site.

During a January 2010 inspection Colleen asked Ms. Therberge to look into why the humidity is so high in the pool area. The humidity issue was corrected. Phil Hackart evaluated the HVAC system and modifications were made to allow the humidity levels to be maintained at 50%. No condensation was apparent at the time of re-inspection.

Previously, alkalinity levels had exceeded state standards and Aquatic Therapy was required to bring levels down to between 50 and 150 parts per million (ppm). The problem with the alkalinity was corrected.

It was confirmed that Ms. Therberge will not be the on-site Certified Pool Operator. Phil Hackart will be the Certified Pool Operator.

**285 High Street:** A complaint was received by Susan Hubbard on March 4, 2010, that the property at 285 High Street is not being maintained. Colleen met with Mr. Lane on March 23 to discuss the complaint. Subsequently, Colleen did a site visit on March 29, 2010. Colleen reported that changes had been made to clean up the property. She also reported that Mr. Lane has three (3) landscaping business operating from his home and therefore has multiple trucks in his yard. Each vehicle on his lot is dedicated to a specific use. He has 10-15 trucks that are used for his landscaping and farming business. Additionally, he has family vehicles on the property that are all registered. Additionally, since the property is recognized as a farm, there are agricultural exemptions which allow him to maintain the vehicles on his property.

The Board was satisfied with the changes made.

**265 Topsfield Road:** It came to the attention of the Health Office that a dwelling unit exists above the barn at 265 Topsfield Road. Since there are no files showing the Health Office approved the dwelling unit or the septic system serving the dwelling unit. Colleen asked the Board if they would like to have an official Title 5 inspection completed. It was the decision of the Board that a Title 5 must be completed within 60 days of receipt of notice.

**Septic Re-Inspection Requirement:** When a dwelling has been unoccupied at the time of a Title 5 Inspection typically the Board of Health will require a re-inspection be done six (6) months after occupancy occurs to ensure that the system is functioning properly. Lately this has been causing problems for closings. DEP was supposed to come out with a guidance document but has left the decision up to each Board of Health. Does the Board want to keep this requirement? It was the decision of the Board to keep the requirement.

**Next Board Meeting:** The two (2) next meetings of the Board of Health were scheduled for May 3, 2010 and June 7, 2010 at 6pm.

**Adjourn:** Susan Hubbard made the motion to adjourn at 8:30 PM. 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