

Acton Board of Health

Minutes

September 26, 2005

Members Present: Mark Conoby, Acting Chairman, Pam Harting-Barrat and Joanne Bissetta, Member and Rita Dolan, Associate.

Staff Present: Doug Halley, Health Director and Sheryl Ball.

Others Present: Margaret Sisson, Angela Ryan, Tina Growosky, Ernie Merrill, Robert and Patricia Wilkins, Jessie Nelson, Robert ZoZuts and Robert Curcio.

The meeting was called to order at 7:39 p.m.

Minutes

On a motion made by Dr. Harting- Barrat, seconded by Ms. Bissetta, the Board unanimously voted to accept the minutes of September 12, 2005 with corrections.

Margaret Sisson – Massage Practitioner

The Health Department is in receipt of an application for a license to practice massage from Margaret Sisson. Ms. Sisson has completed all of the necessary documentation and will be working out of a newly licensed establishment (Be Well and Beyond, 77 Great Road, Acton, MA) . The Health Department recommends approval of this request. Ms. Sisson is currently licensed by the Nashoba Boards of Health which is in good standing. On a motion made by Dr. Harting-Barrat, seconded by Ms. Bissetta, the Board unanimously voted to grant a Massage Practitioner License to Margaret Sisson.

Angela Ryan – Massage Practitioner

The Health Department is in receipt of an application for a license to practice massage from Angela Ryan. Ms. Ryan has completed all of the necessary documentation and will be working out of an existing establishment (New Yu Salon., Acton, MA). The Health Department recommends approval of this request. Ms. Ryan recently graduated from school and this will be her first massage therapy license. On a motion made by Ms. Bissetta, seconded by Dr. Harting-Barrat, the Board unanimously voted to grant a Massage Practitioner License to Angela Ryan.

Tina Grosowsky – Tobacco Regulations

Ms. Grosowsky is present before the Board to discuss bringing Acton's Tobacco regulations into compliance with the State Code and to get input from the Board on what they would like controlled under a revised regulation. Mr. Halley stated that the state has passed a new tobacco regulation within the past year and Acton's regulations are now out of alignment with the State Regulations. Ms. Grosowsky has stated that she would like to use the Westford Regulations as a guideline to amend our current bylaw. The Westford Regulations are a little more strict than the State regulations by imposing higher fines, addition of entrance way buffer zone, fines to the employee as well as the owner and private club variances who have ventilation systems and requiring merchant training for each establishment every two years. The State has put together a training packet that was provided to the Boards of Health. Mr. Conoby stated that the existing bylaw should be amended and if approved would need to go before Town Meeting for approval. Dr. Harting-Barrat stated that she finds the Westford regulations to be more concise. Mr. Conoby suggested going through the current regulations and comparing them to the Westford regulations to make sure we incorporate everything. Mr. Conoby questioned where you draw the line when someone is coming into a private home as a worker. Mr. Halley and Ms. Grosowsky will look at these changes and highlight them for the Board. Mr. Conoby stated that we should conduct a public hearing with the goal of bringing this before the spring town meeting. Ms. Bissetta questioned smoking on town property and how we can enforce it.

18 Cherokee Road–Variance

The Health Department is in receipt of an application for a variance from 310 CMR 15.284 for a reduction in the groundwater with remedial use and Article 11-7.2 for a reduction in the setback

to a bordering wetland located at 18 Cherokee Road. The Health Department has reviewed the plans and finds that the site is restricted by bordering wetlands, severe slopes, bedrock ledge and high groundwater. The Health Department recommends approval of this system as it meets maximum feasible compliance. On a motion made by Dr. Harting-Barrat, seconded by Ms. Bissetta, the Board unanimously voted to grant a variance to Article 11-7.2 and 310 CMR 15.284 with the following conditions:

1. The Singulair 960N shall at all times, be in compliance with the most recent MADEP Remedial Use Approval transmittal.
2. The system shall be constructed in accordance with the plan stamped by Paul McNulty, PE dated 8/25/2005.

89 Central Street – Variance

The Health Department is in receipt of a request for a variance from Article 11-9.6 for a reduction in the depth of stone and Article 11-7.2 for a reduction in the required setback to a wetland to the property located at 89 Central Street. The Health Department has reviewed the proposed plans and finds that the site is surrounded by wetlands, severe slopes, ledge and seasonal high groundwater. The system is proposed to have a two compartment septic tank with an effluent tee filter. The Board questioned the driveway/access road that goes through the system. On a motion made by Ms. Bissetta, seconded by Dr. Harting-Barrat, the Board unanimously voted to grant a variance from Article 11-9.6 and Article 11-7.2 to the property located at 89 Central Street with the following conditions:

1. The system shall be constructed in accordance with the plan stamped by Thomas P.DiPersio, Jr., PE dated 9/8/2005.

Housing Appeal – 76A Parker Street

Diversified Funding, Inc., (DFI) management company, has submitted an appeal to the housing order for the property located at 76A Parker Street, owned by Parker Street Trust. Mr. Robert ZoZuts, Atty representing DFI, is present to discuss the appeal. The landlord has corrected all of the violations except for the replacement of the toilet and tub which have been cleaned instead of replaced. Mr. Conoby asked what the basis of the appeal is. Mr. ZoZuts stated that they are seeking modification of the order as certain areas were cleaned up and asked what responsibility

falls upon the landlord and the tenant. Mr. Conoby stated that the order letter is issued to both parties. Mr. Zozuts requests reinspection by the Health Department. The Health Department can only gain entry by permission of the tenant or court order. The tenants granted permission to have the unit inspected. It was stated that the Health Department will be contacted to set up the reinspection. Mr. ZoZuts presented the Board with photos of the unit. It was asked who took the pictures. It was stated that a maintenance man took the pictures. DFI also stated that they initially gained entry into the unit due to a water leak in the neighboring unit. Mr. Conoby stated that the Health Department is concerned with meeting minimum habitable requirements. On a motion made by Ms. Bissetta, seconded by Dr. Harting-Barrat, the Board unanimously voted to continue the appeal of 76A Parker Street until an inspection can be scheduled to determine if the unit is acceptable to the Health Department.

Title 5 Waiver – 187 Main Street

The owners of 187 Main Street previously requested a waiver from Title 5 which was approved by the Board of Health in January, 2002 giving the property 90 days to connect to the public sewer system. As a follow-up, the Health Department issued an order to connect within 30 days in January 2003. The homeowner did not proceed ahead with the connection. In August, 2005, the homeowner submitted a building permit and another letter was sent to the homeowner, stating that the building permit could not be approved until they are connected to the sewer. In response to that letter the homeowner submitted a passing Title 5 report. The homeowner argues that they never sold the property as the property was divided through divorce proceeding. The Health Department is seeking guidance as to how to handle this situation. The Board stated that title 5 specifically states that a title 5 shall be conducted as a result of divorce proceedings. The Board of Health stated that they are not inclined to eliminate the existing order that the Health Department has against the homeowner as they have consistently ignored the order letters. However, Mr. McInnis did state that because there is a passing Title 5 indicating that there is no threat to the public health, so if they owners would like to seek an appeal they should schedule a hearing to file an appeal. Mr. Merrill, owner of 187 Main Street has stated that personal issues prevented him from notifying the Board and apologizes for this and has indicated that he does not wish to connect to the public sewer at this time for financial reasons. On a motion made by Dr. Harting-Barrat, seconded by Ms. Bissetta, the Board unanimously voted to

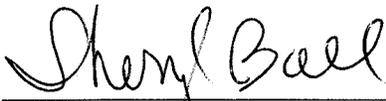
grant an extension of the Title 5 waiver to the property located at 187 Main Street with the following conditions:

1. The Title 5 waiver shall be extended for three years from the August 15, 2005 date of the recent Title 5 inspection of that property.
2. The septic tank shall be pumped and serviced every other year during the extension.
3. The property owner may request an additional extension at the end of three years, with the condition that a passing Title 5 inspection report be provided at that time.
4. Should the property be transferred in any manner during the extension period the owner will be required to connect to the public sewer system within 90 days.
5. There shall be no increase in design flow without approval by the Board of Health.

Adjournment

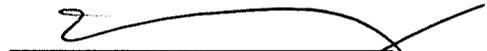
On a motion made by Dr. Harting-Barrat, seconded by Ms. Bissetta, the Board unanimously voted to adjourn the meeting at 9:25 p.m.

Respectfully Submitted,



Sheryl Ball, Health Secretary

Acton Board of Health



Mark Conoby, Acting Chairman

Acton Board of Health