

Acton Board of Health

Minutes

May 8, 2006

Members Present: William McInnis, Chairman, Mark Conoby, Vice Chairman, Joanne Bissetta, Member, Dr. Bill Taylor, Member, Phil Alvarez, voting for Dr. Harting-Barrat.

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

Others Present: Debra Simes, Nancy Tavernier, Pat Friel, Joseph Lesanto, Sue Howe, Daria Lesanto, Claire Pelletier

The meeting was called to order at 7:34 p.m.

Minutes

On a motion made by Ms. Bissetta, seconded by Dr. Taylor, the Board unanimously voted to accept the minutes of April 24, 2006 as amended.

Discussion – Tobacco Regulations

The proposed regulations are before the Board this evening for discussion. These regulations are based on the current State Law and the Board previously discussed these proposed changes. Mr. McInnis stated that he marked up a version and found that the regulations jumped around a lot. The Board agreed to use their original Tobacco Regulations and review them for changes rather than using the alternative version provided by D.J. Wilson. The Board felt they wanted to keep the ability to enforce penalties if a store violates the regulation. Mr. McInnis stated that the Board should review the existing Tobacco Regulations and forward any changes to Mr. Alvarez. Mr. Halley reminded the Board that with any regulation changes the Board needs to make sure that the regulations are enforceable. The Board concluded that future action is required.

Variance – 28 Willow Street

The Health Department is in receipt of an application from the Acton Community Housing Corporation to allow for the construction of three onsite wastewater systems to serve multi-family and single family dwellings on the property located at 28 Willow Street and has requested a variance from Article 11-9.1 for waiver of the requirement for 2 equal size septic tanks and Article 11-9.7 for a reduction in the sidewall of the trenches. The plan as designed shows each unit having their own septic systems. The applicant is proposing to use aggregate free chamber technology. The Health Department has been very involved in the process and recommends approval of these variances. Ms. Tavernier showed the Board the housing plans. The plan was architecturally scaled to fit the landscape of the existing homes in the neighborhood. The ACHC has purchased the property and has reimbursed the town for cleanup of the site, back taxes and all other outstanding matters. The abutters have been involved in the planning and very willingly gave an easement to the side property to allow each unit to have their own separate yard. The Board questioned why this isn't a shared system. Ms. Tavernier stated that the ACHC felt it was important to create the feeling of separate ownership even though they are a condominium. Ms. Tavernier stated that this is a village setting which is already more dense than other neighborhoods. Mr. McInnis also stated that the Board has never granted this type of new construction variance. Ms. Tavernier stated that they have an ongoing relationship with the neighbors and the neighbors have expressed interest to keep the separate septic systems. Mr. Halley pointed out that the proposed changes to Article 11 regulations will be before the Board soon as result from the changes to Title 5 and this proposed system would be compliant with the proposed regulation changes. The Board asked Ms. Tavernier if there is any urgency to approve this variance. Ms. Tavernier stated that in order to get comprehensive permit approval they would need to have the engineering done which would require Board of Health approval. The Board agreed that they would approve these variances in anticipation of the proposed article 11 changes as the systems will be compliant once those changes are made. Mr. Conoby stated that it is important to make consistent decisions. Mr. Conoby also questioned who would be responsible for maintenance issues. Ms. Tavernier stated that the ownership of the lots will be recorded in the deeds and that the condo association will take care of any required maintenance. Mr. McInnis stated that a copy of the condo association documents should be recorded in the file.

On a motion made by Mr. Conoby, seconded by Dr. Taylor, the Board unanimously voted to approve a variance from Article 11-9.1 and Article 11-9.7 to the property located at 28 Willow Street with the following conditions:

1. The applicant shall install one two-compartment 1500 gallon septic tank at each dwelling.
2. Each septic tank shall be fitted with a DEP approved effluent tee filter.
3. The septic tanks shall be pumped a minimum of once every two years.
4. The owner of each condominium unit shall be responsible for the maintenance of his/her own system.
5. All condo association documents shall apply.
6. The system shall be built in accordance with Health Department approval and the above conditions and a plan stamped by Bruce Stamski, PE dated 4/25/2005.

Phil Alvarez left meeting at 8:34.

Title 5 Waivers

The Health Department stated that they would like to discuss the granting of Title 5 waivers to the residents located within the expanded sewer district. Mr. Halley stated that the Board originally granted waivers to owners in the first phase to the benefit of both the town and homeowners. The Health Department stated that this was done so that homeowners with failed septic systems could sell their home without replacement of the septic as sewers would be available in the next five years. The Title 5 waivers were done so homeowners will not be charged twice, once for the septic replacement and once for the connection to sewers. However, the Board's primary concern is to protect the public health. The homeowners in the second phase of the sewer district have been very positive about connecting to the sewers. Mr. Halley stated that there is currently a 1.3 million dollar deficit loan with the sewer project that is outstanding because we knew we had future people in the district. Four years ago when the existing treatment plant was brought online the DEP would not allow us to discharge more than 250,000 gallons per day. Last year after review by the DEP the Town was granted a discharge permit of up to 299,000 gallons per day. Mr. Halley stated that phase two was identified the CWRMP process as a needs area due to high groundwater. The Board stated that they are a little troubled about granting 5 year waivers as the money for the project has not been approved by

Town Meeting. The Board stated that they would consider granting two year waivers prior to the money being appropriated if someone were to request one. The Board agreed to the two year waiver only because when a homeowner obtains a failing Title 5 they have two years to replace the septic system per State Law. All homeowners in the Phase 2 area that were present at tonight's meeting spoke in favor of the sewer project and Title 5 waivers. The Board also stated that if Title 5 waivers are granted the homeowners will be asked to agree to connect to the sewer system within 90 days of it becoming available. The Board also spoke about the need for homeowners with failing title 5's that the primary concern would be to maintain the failing system as not to create any public health concerns. Mr. Halley stated that in the first phase of the sewer project we were successful in limping 130 houses along for five years. Mr. Halley also stated that Town Counsel has written that the town has met the minimal financial commitment for allowing the granting of waivers and it is up to the board to decide if they would grant them. Mr. Halley also stated that Town Counsel can write something to assure us if the Board wishes. Mr. Conoby stated that the Board can't make the decision to financially commit to the project. Mr. McInnis asked if the Board would like to wait until after town meeting to grant waiver requests. Mr. Halley stated that once Town Meeting approves the financial commitment the money will be obtained through private bonding or state revolving fund. Those monies would become available in November of any given year. The Town could access money as early as November 2007 and borrow in advance of the state revolving fund. Mr. Halley further stated that bid construction could begin in 2008 and anticipates that would take approximately one year which would bring us within the five year Title 5 waiver. Mr. Lesanto, of 1 Torrington Lane, stated that he has sold his house and a Title 5 has determined that his system is in failure. The Board also stated that they would like a letter from the Selectmen giving financial assurance. Mr. Halley asked the Board for direction. The Board stated that any T5 waiver requests should be scheduled at future Board meetings and that they would consider each request and possibly grant waivers for two years with the expectation that they would extend the waiver to five years once the financial commitment has been made by the town conditioned on receiving the following:

1. Town counsel revised letter based on actual vote of town meeting
2. The BOS requests specific guidance as to where this stands.

Adjournment

On a motion made by Ms. Bissetta, seconded by Dr. Taylor, the Board unanimously voted to adjourn the Board of Health meeting at 10:00 P.M.

Respectfully Submitted,



Sheryl Ball, Health Secretary
Acton Board of Health



William McInnis, Chairman
Acton Board of Health