

Acton Board of Health

Minutes

September 12, 2005

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

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

Others Present: Jennifer Waters, Sue Kennedy, Mary Michelman, Gena Manalan, Jeff Hannaford, Ted Doucette, Marie and Bob Doran, Susan Mitchell-Hardt and Carol Holley.

The meeting was called to order at 7:38 p.m.

Minutes

On a motion made by Dr. Harting- Barratt, seconded by Ms. Bissetta, the Board unanimously voted to accept the minutes of July 18, 2005 with corrections.

On a motion made by Dr. Harting-Barrat, seconded by Ms. Bissetta, the Board unanimously voted to accept the minutes of August 22, 2005 as written.

Jennifer Waters – Massage Practitioner

The Health Department is in receipt of an application for a license to practice massage from Jennifer Waters. Ms. Waters has completed all of the necessary documentation and will be working out of an existing licensed establishment (Christine's Skin and Nails). Ms. Waters currently holds a license that is in good standing through the City of Woburn and Winchester. The Health Department recommends approval of this request. On a motion made by Mr. Conoby, seconded by Dr. Harting-Barrat, the Board unanimously voted to grant a Massage Practitioner License to Jennifer Waters.

The Board declared a recess in order to meet with the Board of Selectmen for an oversight meeting. The Board will return to resume agenda items.

46 Seminole Road - Variance

The Health Department is in receipt of an application for a variance from 310 CMR 15.405(1)(b) for a reduction in the required setback from a foundation wall to a septic system, 310 CMR 15.405(1)(b) for a reduction in the required setback from a septic tank/pump chamber from a foundation wall, and 310 CMR 15.405(1)(a) for a reduction in the required setback to the property line to the Town's right of way for the property located at 46 Seminole Road. The Health Department has reviewed the plans submitted and finds that the site is very restrictive due to the bordering wetlands. The existing system is located under the driveway and the existing grading has made placement in the back of the property unacceptable. The existing water line will be removed and replaced in a different area and the existing plumbing will be re-routed. The proposed system meets maximum feasible compliance. On a motion made by Dr. Harting-Barrat, seconded by Ms. Bissetta, the Board unanimously voted to grant a variance from 310 CMR 15.405(1)(b), 310 CMR 15.405(1)(b) and 310 CMR 15.405(1)(a) to the property located at 46 Seminole Road with the following conditions:

1. The system is to be pumped at least once every two years.
2. The system is built in accordance with the plan stamped by Christine Chisholm, RS, dated 8/31/2005.

7 Samuel Parlin Drive - Variance

Mark Conoby recused himself. The Health Department is in receipt of an application for a variance from 310 CMR 15.405(1)(b) for a reduction in the setback from a SAS to a foundation wall for the property located at 7 Samuel Parlin Drive. The Board of Health had previously granted a setback variance to allow the system to be 10' from the foundation wall and a variance to use Title 5 LTAR. Upon starting construction, the neighbors questioned the actual property lines when trees were flagged for removal that were actually on the abutter's property. It has now been determined, as a result of a survey that the property lines were incorrectly determined and the proposed system is too close to the property line. Therefore the system has been

redesigned to move the system further from the property line and placed closer to the foundation wall. Mr. Halley stated that originally the Health Department was concerned with replacing the system in the same location when the Board of Health met on the first variance. The system is only 6 years old and is in failure. Mr. Doucette stated that when the existing system was looked at there was no biomat and the stone was still clean. Mr. Doucette also stated that the soil was too compact, therefore the soils were unable to accept the discharge and indicated that a percolation rate was assumed at 17 mpi. The Health Department believes that the system is in failure due to misuse. The Board questioned whether another area was looked at to construct the system but Mr. Doucette stated that it was determined that too much fill would be needed. Mr. Halley stated that he would like to see additional test holes conducted in the other areas. Mr. Doucette stated that he looked at other areas and would be happy to provide the testing notes if he could locate them. The house is currently on the market and is vacant. Dr. Harting-Barrat asked if it was proper procedure to survey the lot after construction begin. Mr. Doucette stated that he felt comfortable with the property lines but he did encourage the homeowners to conduct the survey, however a survey was not conducted until the abutters questioned the property line. Mr. McInnis asked the Board members if the consensus was to grant this variance subject to the Health Director's approval. The Board was in agreement with Mr. Halley's recommendation to witness an additional test hole. Mr. Doucette stated that he doesn't see the need for the additional test holes. Mr. McInnis stated that this proposed system is in a very tight spot and would like to see other areas pursued. On a motion made by Dr. Harting-Barrat, seconded by Ms. Bissetta, the Board unanimously voted to grant the variance subject to the Health Director approval and consultation with Mr. Reagor from 310 CMR 15.405(1)(b) to the property located at 7 Samuel Parlin Drive with the following conditions:

1. The system is to be pumped at least once every two years.
2. The system is built in accordance with a plan stamped by Christine Chisholm, RS dated 8/31/2005.

The abutter questioned who was responsible for replacing the trees that were cut. Mr. Doucette stated that they should submit a claim and provided the name of the contractor.

Landfill – Hazardous Materials – Sue Kennedy

Sue Kennedy was present before the Board of Health to discuss the citizen petition that was withdrawn from the Special Spring Town Meeting. Ms. Kennedy stated that she didn't draft the original citizen petition, Jim Connelly did and he has unfortunately moved out of town.

However, it was her understanding that the original proposal by Home Depot stated that they would be accepting hazardous materials to cap the landfill and a citizen petition was drawn up to protect the landfill site. The citizen's petition was eventually withdrawn in order to have time to address all concerns and so all groups would have the ability to work together. Ms. Holley stated that she is concerned with airborne contaminants with close proximity to the neighborhoods and school. Mr. McInnis stated that we should also be concerned with groundwater contamination. Ms. Holley also stated that after speaking with Peter Ashton it was her belief that a committee was going to be formed to address these issues. The Board of Health stated that they are unaware of this committee. The Board stated that the existing Hazardous Materials Control Bylaw should be looked at more closely and possibly amended to make it more restrictive. Ms. Holley stated that they would like time to actively review the bylaw and would like to see a committee formed. It was stated that the concerned citizens form a working group instead of a committee. Dr. Harting-Barrat stated that the potential working group should start the process of setting the goals. Ms. Michelman stated that everyone is in agreement that this needs to be addressed and asked how to proactively address this problem. Mr. Conoby suggested that the Board of Health hold a public hearing to address this issue and recommended that we start with an outline to address the basic issues. It was suggested that we seek members for the working group from the BOH, BOS, Mary Michelman, Carol Holley, and the Finance Committee. The Board stated that they would contact Peter Ashton as he has expressed an interest in being in the working group. The Board also stated that they would like to see a working group formed prior to the next Board of Health meeting.

Dr. Harting-Barrat wants to make this clear that it is not anti - Home Depot but we are trying to protect the environment and suggested that everyone look at the BOH documents.

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 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

Other

- Mr. Halley stated that the homeowners on Central Street have made a lot of progress towards cleaning up the property.
- Mr. McInnis stated that Doug and Brent will be speaking about Pollution Control and Stormwater at the MHOA conference in the fall.

Adjournment

On a motion made by Dr. Harting-Barrat, seconded by Mr. Conoby, the Board unanimously voted to adjourn the meeting at 10:25 p.m.

Respectfully Submitted,



Sheryl Ball, Health Secretary
Acton Board of Health



William McInnis, Chairman
Acton Board of Health