

Acton Board of Health – Minutes

November 17, 2003

Room 126, Town Hall

Board Members Present: William McInnis, Chairman, Mark Conoby and Roxanne Hunt.

Staff Present: Doug Halley, Health Director, Brent Reagor, Health Agent & Sheryl Ball, Secretary.

Others: Jeff Vandegrift, John Dagdigian, Nancy Dagdigian, Jonathan Markey, Craig Forester, Kimberly Wiswell, Laura Jacobs, Denise Theodores, Ginger Hobson, Jonah Laufer, Neil Cronin, Todd Fenniman, Bridget Nedzi, Lou Levine, Rosalie Berry, Bill Smith, Carol Zachor, Al Zachor, and Rich Harrington.

The meeting was called to order at 8:34 p.m.

Variance – 7 Church Street

The Health Department has received a request for a variance from the owners of 7 Church Street from Article 11-9.1 for a waiver of the minimum leaching area and for use of 310 CMR loading rate instead of Acton's loading rate, Article 11-9.6 for a reduction in the depth of stone, 310 CMR 15.405(1)(a) for a reduction in the offset of a leaching area to a property line, 310 CMR 15.405(1)(b) for a reduction in the offset of the septic tank, pump chamber and leaching facility to a foundation wall and 310 CMR 15.405(1)(i) for a reduction in the 5' offset to groundwater. The site is extremely limited due to its size and groundwater was found at 56". An effluent filter has been proposed along with a two compartment septic tank to compensate for the reduced groundwater offset. The Board expressed their concern with granting the reduction to groundwater offset due to the condition that there be a buildout restriction placed on the property. The owners were present and indicated that they would accept this condition. Mr. Conoby suggested placing a poly barrier in between the system and the foundation. On a motion made by Mr. Conoby, seconded by Ms. Hunt, the Board unanimously voted to grant a variance from Article 11-9.1, 11-9.6, 310 CMR 15.405(1)(a) & (b) and 310 CMR 15.405(1)(i) to 7 Church Street with the following conditions:

1. The applicant must submit, in writing, an explanation why a remedial use of Innovative/Alternative technology would not be an appropriate use for the site or present evidence that the installation of an I/A system would create a significant financial burden equal to 10% of the value of the structure.
2. A letter from the property owner must be submitted acknowledging the restriction on increases in square footage and design flow. This letter must be submitted prior to the issuance of the Disposal Works Construction Permit.
3. Prior to the commencement of construction, a deep test hole for the purpose of determining the Estimated Seasonal High Groundwater Elevation shall be witnessed by a Licensed Soil Evaluator who is also an Agent of the Acton Board of Health.
4. No increase in square footage or design flow is allowed. All subsequent owners of the property must be notified in writing of this condition.
5. Before the Disposal Works Construction Permit is issued by the Health Department, the applicant shall submit acceptance of these conditions in writing.
6. The system is required to be pumped a minimum of once every two years.
7. The property line affected by the setback variance shall be field certified by a Massachusetts Registered Professional Land Surveyor.
8. The system is built in accordance with the above listed conditions and a plan stamped by Scott Hayes, PE, dated 11/10/2003.
9. A 40 mil polyethylene plastic barrier is to be installed between the tanks and the foundation wall.

Massage Practitioner – Kimberly Wiswell

The Health Department has received a request from Kimberly Wiswell for a Massage Practitioner license in Acton. Ms. Wiswell would be working at the Moodz Spa. Ms. Wiswell has submitted all appropriate documentation except for the TB test. Ms. Wiswell had the test today and will receive the results on Wednesday. The Health Department recommends approval of this application conditioned on the results of a negative TB test. The Board asked Ms. Wiswell if her licenses in other towns was in good standing. Ms. Wiswell indicated that they were. On a motion made by Mr. Conoby, seconded by Ms. Hunt, the Board unanimously voted to grant a Massage Practitioner License to Kimberly Wiswell conditioned on submitted a negative TB test.

Discussion – Rex Lumber

Mr. Halley stated that he met with Rex Lumber to discuss the status of the outstanding order letter regarding the noise complaint. Mr. McInnis stated that Mr. Halley should discuss what has been accomplished so far. Rex Lumber indicated that a second set of sound testing was performed to determine more specific areas where the noise levels are out of compliance. Rex Lumber stated that they have hired a consultant to determine the best ways to reduce the sounds levels and are awaiting their proposal. Mr. Forester, Rex Lumber along with his attorney, Lou Levine, stated that they anticipate compliance with the noise levels by the end of December. The Board asked Mr. Forester to submit the results of the first sound testing. Mr. Forester indicated that Rex Lumber would submit the results of the first testing as soon as possible. Rex Lumber also assured the Board that they would be in contact with Mr. Halley weekly to discuss updates. The Board asked Rex Lumber if there were any interim measures that could be done to mitigate the noise. Rex Lumber stated that Mr. Halley could contact their consultant to discuss these matters.

Ms Hobson, 3 Blueberry Path, stated that the Board of Health should have received a copy of the initial sound testing and stated that the ambient noise level will be different in the winter with no leaves on the trees and snow on the ground. Mr. Forester stated that it is Rex Lumbers intention to fix the problem permanently to satisfy the sound levels in all four seasons. Ms. Hobson also asked what interim measures can be done to reduce the noise levels now. Mr. Conoby asked Rex Lumber to look into options to help reduce the neighbors noise levels.

On a motion made by Ms. Hunt, seconded by Mr. Conoby, the Board unanimously voted to continue this hearing until December 22, 2003.

Variance – 29 Lincoln Drive

The Health Department is in receipt of a variance from the owners of 29 Lincoln Drive from Article 11-9.1 for a reduction in loading rate, Article 11-9.6 for a reduction in the leaching stone and 310 CMR 15.405 for a reduction in the required setback from a pump chamber and leaching area to a slab foundation. The proposed system is rather large due to the high perc rate. After review the Health Department recommends granting these variances due to the fact that the system is currently in failure and the loading rate variance is necessary due to the limited amount of natural soil exists on the lot. On a motion made by Mr. Conoby, seconded by Ms. Hunt, the

Board unanimously voted to grant a variance from Article 11-9/1, 11-9.6 and 310 CMR 15.405 to 29 Lincoln Drive with the following condition:

1. The system is built in accordance with a plan stamped by Steven Calichman, RS, dated 11/3/2003.

Variance – 142 Newtown Road

The Health Department has received a request from the owners of 142 Newtown Street for a variance from Article 9.6.4.1 for a reduction in the required setback to an existing irrigation well and Article 11-9.6 for a reduction in leaching stone. The septic system has been proposed to have a 93' setback to the irrigation well because an easement from an abutter would be required to meet the 100' setback. On a motion made by Ms. Hunt, seconded by Mr. Conoby, the Board unanimously voted to grant a variance from Article 9.6.4.1 and 11-9.6 to 142 Newtown Road with the following conditions:

1. The system is built in accordance with a plan stamped by Steven Calichman, RS dated 11/4/2003.
2. The irrigation well shall be tested to meet EPA primary drinking water standards.

Variance – 525 Main Street

The Health Department has received a request from the owners of 525 Main Street for a variance from Article 11-9.1 for the use of 310 CMR 15.242 loading rate in lieu of Acton requirements. The site is very restrictive due to ledge. On a motion made by Ms. Hunt, seconded by Mr. Conoby, the Board unanimously voted to grant a variance to Article 11-9.1 and 310 CMR 15.242 to 525 Main Street with the following conditions:

1. The system is built in accordance with a plan stamped by David E. Ross, PE dated 11/6/2003.
2. No floor drains shall be installed unless directed to a tight tank.

Variance – 59 High Street

The Health Department has received a request from the owners of 59 High Street for a variance from Article 11-9.1 for the use of 310 CMR loading rate and for a waiver of the minimum required leaching area, Article 11-9.6 for a reduction in the depth of leaching stone and 310 CMR

15.405 for a reduction in the leaching area. The placement of the system is limited to high groundwater, severe slopes and the placement of the house and a 20' wide drainage easement. On a motion made by Mr. Conoby, seconded by Ms. Hunt, the Board unanimously voted to grant a variance from Article 11-9.1, 11-9.6 and 310 CMR 15.405 to 59 High Street with the following conditions:

1. The system is built in accordance with a plan stamped by Joseph March, PE dated 11/7/2003.

Variance – 15 Billings Street

The Health Department has received a request from the owners of 15 Billings Street seeking a Permit Upgrade from 2 to 4 bedrooms. The applicant has requested this upgrade for a proposed addition. The current septic system was installed in 1987 and consists of a 1000 gallon septic tank and 900 square feet of leaching. Under the regulations from 1987 that system was adequate for a four (4) bedroom permit at that time, however under current regulations the tank would need to be upgraded to 1500 gallons. The applicant has asked that the Board of Health grant him a four (4) bedroom permit without upgrading to a 1500 tank. The Board stated that they did not have the provision to grant this variance but could issue a finding to correct the record. On a motion made by Mr. Conoby, seconded by Ms. Hunt, the Board unanimously voted to issue a finding that the record be corrected to reflect a four (4) bedroom home.

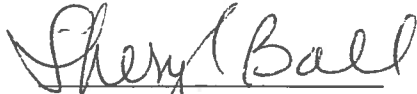
Emergency Beaver Trapping Permit

A request for an emergency beaver trapping permit has been requested to alleviate flooding of driveways and septic systems along Fort Pond Brook. The Health Department has received numerous complaints from abutters. The dam was removed in the last two weeks which helped with the flooding temporarily until the beavers rebuilt the dam. Mr. McInnis stated that he traveled to the Houghton Lane area and noted the flooding problem. On a motion made by Ms. Hunt, seconded by Mr. Conoby, the Board unanimously voted to grant a ten (10) day emergency beaver trapping permit.

Other Business

On a motion made by Mr. Oliveri, seconded by Mr. Conoby, the Board unanimously voted to adjourn the meeting at 10:30 p.m.

Respectfully Submitted,



Sheryl Ball, Secretary
Acton Board of Health



William McInnis, Chairman
Acton Board of Health