

ACTON BOARD OF HEALTH

MEETING 1/22/90



MEMBERS PRESENT: Joseph Glannon (Chairman)

George Emmons

Gerhard Heinrich

Marilyn Hotch

Jonathan Bosworth

STAFF PRESENT: Doug Halley (Director)

Steve Ward

Sheryl Howe

OTHERS PRESENT: Louis Levine

John Bellantoni

Jack Dunphy

MINUTES:

On a motion made by Mr. Heinrich, seconded by Mr. Emmons, the minutes of November 27, 1989 were unanimously accepted as written.

On a motion made by Ms. Hotch, seconded by Mr. Emmons, the minutes of December 18, 1989 were unanimously accepted following corrections.

On a motion made by Mr. Emmons, seconded by Ms. Hotch, the minutes of January 8, 1990 were unanimously accepted following corrections.

VILLAGE ARMS - 421 GREAT ROAD - APPEAL OF CEASE & DESIST:

Mr. Bellantoni, Trustee of the property is requesting an appeal for the cease & desist order issued on December 12, 1989 to 421 Great Road.

The Health Department issued a cease and desist letter by an officer of the law on the above mentioned date to stop construction of the illegal septic system.

Mr. Bellantoni, the owner, stated that the action of installing the illegal septic system was wrong, however, he felt that what he did was the only possible action to ensure that effluent would not discharge to the surface of the ground.

Mr. Bellantoni's lawyer, Louis Levine, stated that Mr. Bellantoni decided to go ahead with the repair for fear that winter was approaching and he had limited time to build. Mr. Bellantoni was also paying a considerable amount of money to keep the system pumped as ordered by the Health Department.

Mr. Halley stated that Mr. Bellantoni acted knowing that a meeting was scheduled for December 18, 1989 and that Mr. Bellantoni should have waited the six days for the Board's decision on whether a permit would be issued at that time.

The installing of the septic system without a permit is a serious offense which forces the Board to take strong action against Mr. Bellantoni.

Mr. Halley feels that if Mr. Bellantoni would agree to culpability then the Board could possibly agree to a fine to be paid to the Town. The department would then drop the criminal complaint.

The Board previously granted a variance to build the septic system at one foot above groundwater with the condition that within 15 years a sewage treatment plant would be built. The illegal system which was installed was

almost identical to the previous system built in 1973 which was built two feet above groundwater. Mr. Halley feels that by installing an interceptor drain there might be a possibility of lowering the groundwater to at least three feet. The Board discussed having the illegal system raised to obtain at least 3 feet or more to groundwater if the interceptor drain does not reduce the groundwater to three feet or more below the level of septic system. This type of variance would still require approval from D.E.P.

On a motion made by Ms. Hotch, seconded by Mr. Heinrich, the Board unanimously voted to drop the criminal violations and settle the civil allegations and to grant a variance allowing the depth to groundwater to be at least three feet for Village Arms, 421 Great Road, Acton, MA 01720 if Mr. Bellantoni agrees to the following conditions:

1. A written agreement between both parties be reached which would include recitation of violations occurred and the amount of dollars paid for civil penalties.
2. Construction of the system shall be certified as to design requirements.
3. Installation of the water saving devices and water meter shall be certified.
4. Design of an interceptor shall be submitted to the Health Department staff.
5. The design shall be submitted to D.E.P. for consideration of the proposed variance. Then, if D.E.P. grants the variance, the applicant shall construct an interceptor drain within thirty days and re-testing shall be done subsequently to determine groundwater level. If depth to groundwater from the bottom of the septic system is not three feet or more or if D.E.P. denies variance then the applicant within thirty days must submit an alternate plan.

The Board also discussed imposing a fine to Mr. Bellantoni for the construction of the illegal repair. The maximum penalty that the Board could impose for these violations is \$35,000 and the minimum is \$700. Mr. Halley recommends that the fine be set at \$5,000 because there was clear violation of the law, and a warning to stop was issued and ignored by Mr. Bellantoni.

On a motion made by Mr. Heinrich, seconded by Ms. Hotch, the Board unanimously voted to combine all tickets that have not been paid and required Mr. Bellantoni to pay to the Town of Acton a fine in the amount of \$2,500.

Mr. Halley stated that the Town would drop all criminal complaints when Mr. Bellantoni signs the agreement to the conditions imposed and when the fine is paid.

On a motion made by Ms. Hotch, seconded by Mr. Glannon, the Board unanimously voted to adjourn at 9:55 P.M.

Respectfully Submitted,

Sheryl Howe

Sheryl Howe, Secretary

Signed and Approved,

Joseph Glannon

Joseph Glannon, Chairman