

ACTON BOARD OF HEALTH  
MINUTES OF MEETING  
SEPTEMBER 9, 1986

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Barbara Brown  
TOWN CLERK, ACTON

Present: Board members: Chairman Daniel Costello, Charlotte Sagoff, Richard Stephens, Eleanor Voorhies. Staff: Steven Calichman, Edward Wirtanen, Deborah Robertson, Carol Holley.

The meeting began at 7:40 with a review of correspondence..

7:50 p.m. 225 School Street. Mr. Costello asked if any variances were required, to which Mr. Calichman replied no. Mr. Stephens asked if it could be repaired to code, then moved that a special permit be granted subject to the following conditions:

1. No underground fuel storage tanks are permitted on the site.
2. Septic tank will be pumped a minimum of once every 2 years.
3. The site will fully conform to the Town of Acton Hazardous Material Control By-Law.
4. The sewage disposal system to be approved by the Acton Board of Health Staff.

Miss Voorhies seconded the motion. Mr. Wirtanen asked if underground storage tanks should be removed if they are there now. Mr. Stephens amended that provision to read no NEW tanks to be installed in the future. The motion as amended was unanimously carried.

7:58 Groundwater. Mr. Calichman approved an increase of fee from \$50 to \$75 per lot. Miss Voorhies moved that the Board so increase the fee. Mrs. Sagoff requested clarification regarding the number of test holes to be dug for said fee. Mrs. Robertson explained that a second round of testing, with holes dug in new areas, required a new application with new fee. Mr. Stephens asked about the amount of time expended for this testing and questioned the applicability of an hourly fee. Mr. Costello suggested major fee revisions be handled in the future. An increase of the fee to \$75 was unanimously voted in as an interim measure pending cost study.

8:02 Groundwater. A discussion of seasonal groundwater levels over a period of 22 months was held due to the opinion of staff sanitarians that the groundwater testing period be revised to reflect spring months only. Discussion was tabled until later in the meeting.

8:04 77 Alcott Street. Mr. Calichman stated that this was a repair. Mr. Costello asked if any variances were required. None were. Mr. Stephens moved that a special permit be granted subject to the following conditions:

1. No underground fuel storage tanks are permitted on the site.
2. Septic tank will be pumped once every two years.
3. The site will fully conform to the Town of Acton Hazardous Material Control By-Law.
4. The sewage disposal system is to be approved by Acton Board of Health Staff.
5. Leaching facility is designed and installed with an intermediate layer with a percolation rate of between 6-10 minutes per inch in those areas that have a percolation rate of less than 2 minutes/inch.

8:05 Peter Bemis et als, Kay Companies and Data Instruments. Lunchroom matter. Mr. Bemis distributed a revised covenant. He stated that a previous draft of a covenant had been rejected by Mr. Calichman in a meeting. The issue was one of lunchroom vs full service cafeteria. The septic system was designed for 15 gal/person/day, without a cafeteria. Mr. Calichman stated that Data Instruments, via the covenant, wished the Board to agree to usage of the facility as a cafeteria. Mr. Costello asked if the covenant were to be recorded in the Middlesex South District Registry of Deeds, to which Mr. Bemis replied yes. Mr. Bemis stated that only paper dishes were to be used. In answer to an inquiry by Mrs. Sagoff, he stated all cooking was to be done off site. Mr. Costello asked Mr. Calichman's recommendation. Mr. Calichman recommended that if the Board felt the covenant could allow the Board to hold Data Instruments to the outlined procedures, it would not run into the problem of excess flow for the system design. Mr. Bemis stated that his engineer had found the system adequate for the use of paper plates. Mr. Stephens stated that he felt the procedure to be terribly unusual. He felt that if there were another way to rectify the situation it would be preferable to legally binding an entity to the use of paper plates. Mr. Bemis stated that the plan was always to use paper in the facility. Mr. Peter Rousseau, Data Instruments President, stated that in their current facility they had vending machines, and it was the wish of management as a service to their staff to provide more. Mr. Stephens asked with whom the covenant was to be. Mr. Bemis and company stated that the covenant was binding both for the owner of the property and the tenant. Mr. Calichman then stated that, based upon the representation made that the group did not realize they were over the lunchroom/cafeteria line, he felt that having a covenant such as the one presented gave the Board of Health a strong enforcement tool, and he recommended allowance of the use. Mr. Costello suggested a change in the language at one point to add "or increase the size of the system." Mr. Stephens moved that the Board of Health endorse the occupancy permit with the proviso that the instrument (covenant) be recorded in the Middlesex South District Registry of Deeds. Mrs. Sagoff seconded the motion, which carried unanimously.

8:18 Kevin Sweeney. Issue of subsurface drains. Mr. Costello stated he didn't know of any drains that weren't subsurface, and he had assumed the language in the regulation was dealing with underdrains. Mr. Costello suggested that Town Counsel, or some other authority, be asked to clarify this language. Mr. Costello then asked why Mr. Sweeney was before the Board. Mr. Calichman stated that there was a question regarding distance requirements with regard to aquifer protection areas, and a possibility that street drains would have to be at least 100 feet from the construction of subsurface leaching works. Mr. Sweeney was finding himself unable to put in road drainage, a septic system, and still be within allowable distances from the aquifer. Mr. Costello stated that a definition of subsurface drains, and asked if that described Mr. Sweeney's problems. Mr. Sweeney then explained at length the details of his situation, and the disagreements he had with Mr. Wirtanen. Mr. Costello stated then that his interpretation of the regulation was to prevent sewage from the leaching field going into the drainage system, not the drain leaking into the sewage system. There is no way that groundwater will be affected. He thought that lots 9, 10 & 11 MacLeod Lane should be granted a variance to Acton Board of Health regulations.

Mr. Sweeney wished to continue the philosophical discussion, but was interrupted by Mr. Costello, who asked if he would not be unhappy to have the lots in question approved. Mr. Sweeney's engineer expanded the discussion. Mr. Costello again asked that this be covered another time. He stated that he thought lots 9, 10 and 11 conformed to the intent of the law that there will be no hydraulic link between groundwater and system. Mr. Stephens stated he assumed that a tributary was something connected to a reservoir, and that the intent of the regulation was to try to keep leaching fields from connecting to water courses. Mr. Sweeney and his engineer then brought up the matter of the subdivision in question being grandfathered. More, extensive discussion ensued. Mr. Stephens moved that variances to Acton regulation 11-12.2 be granted, then questioned whether or not it was necessary as, in his opinion, there was not tributary. He then moved that a note be written to file clarifying Section 11-12.2 that tributaries are interpreted by this Board to mean any reasonable pathway to the water supply of the Town of Acton. The point is, and the underlying purpose on all maps, is to protect tributaries. Miss Voorhies seconded the motion. Mrs. Sagoff abstained. Mr. Costello, Miss Voorhies, and Mr. Stephens voted in favor.

Mr. Sweeney then opened up a discussion of new procedures submitted by Acton Board of Health staff to builders regarding submission of plans when original plans are amended. Mr. Sweeney felt this procedure to be unfair, causing delays and extra expense. He also asked why he had to wait for a foundation to be in before submitting plans for septic systems. Mr. Calichman stated that staff was working with him to evolve a clear policy on plans and decisions to be allowed in the field versus revisions of plans, and how much of an inspector's responsibility involved on the spot judgments in the field. Mr. Costello endorsed field expediency, when circumstances permitted. He felt that changes could be written down in the as-built as opposed to the design stage for plans. Mr. Sweeney's engineer asked if Lycott had quantified travel time, to which Mr. Stephens responded yes, red zones reflected one-year travel time.

9:05 Kelleher, 864 Main Street. Mrs. Robertson presented the Board with a list of materials found on site. Mr. Costello asked if any floor drains were present where the materials were stored. Mr. Calichman stated that the materials by-law did not even apply to quantities as small as those found on the premises. Mr. Calichman, after some discussion of quantities, asked if there were approval for Mr. Kelleher's repair. Mr. Stephens moved that a special permit be granted subject to:

1. No new underground fuel storage tanks permitted on the site.
2. Septic tank will be pumped every two years.
3. The site will fully conform to the Town of Acton Hazardous Material Control By-Law, including registration of all materials for cleaning pipes in excess of 5 gallons.
4. The sewage disposal system for the proposed buildings at this site are to be approved by Acton Board of Health Staff.

Mrs. Sagoff seconded the motion, and all voted in favor.

9:10 32 Harris Street. Mr. Calichman stated that the repair was redesigned to make this special permit not necessary.

9:11 Maximum Groundwater. Mr. Calichman stated that the information was put together by staff in checking to see if the Board should be changing the regulations with respect to opening dates for groundwater testing. Groundwater testing season should either be limited by dates or follow the lead of some Boards of Health to go by groundwater level information on when to open and close testing. The latter becomes cumbersome when dealing with the public. His recommendation is to continue to monitor and gather data until early spring, and based upon that take some action on limiting groundwater testing season. Taking action at this particular time will put us under pressure politically, by changing the regulations so close to the usual testing season. I am suggesting that we go ahead and open season November 1 and gather data and analyze next spring. I do not want any action tonight.

Mr. Wirtanen stated that staff disagreed with the Director. I think the Board of Health is ill-advised not to proceed with the testing season. We are heading into a period which is very dry. In the last 22 months, not including August, we have 10 months that were below normal. We are 1 inch low for the average at this time of year. I am going to alert the engineers to put in a monitor pipe which, we feel, is an additional burden. We want to continue monitoring and I think eventually the Board of Health review and amend its Regulations. We are giving people false security in terms of permits.

Mr. Costello contested the finding of below normal water levels. Mrs. Robertson stated that testing would be scheduled on an annual basis depending on data, not on calendar month; we are proposing flexibility to set the testing season on an annual basis. Mr. Costello stated that no one was disagreeing with that concept. Mrs. Robertson stated that the sanitarians proposed that the groundwater season be published and then explained as justified by data. Mr. Calichman feels that this year should not do this because of the time periods involved. Mr. Calichman stated that, from his previous conversations with Town Counsel on this matter, that staff should have a determination by the Board. He recommended that we not preempt the testing season from starting. If you keep the regulations as such with November then you run the risk of someone coming back saying, "we did the testing during the season and there was no groundwater..." Mrs. Sagoff asked, why can't the regulations say something to the effect that testing is depending on the water level and we are monitoring it, and presumably the season starts in November, but if it is dry..." Mr. Costello stated he thought it should be clearly published when groundwater was optimal. Mr. Calichman stated that the inspector always has the option of wanting another observation hole in March or during Spring-like conditions. Mr. Costello asked if he interpreted the regulations as saying that we will do the test hole, but if conditions are not good, I am going to withhold the permit... Mrs. Robertson stated that Title 5 recommends December to May, and recommends that it should be done during periods of high ground water. Mr. Stephens asked if there were agreement that the Board will or will not test in November. Mr. Wirtanen stated that, at the pace staff was going, they will test in November but the water table will not be recognized. Mrs. Robertson stated that there will be a difficult relationship between staff and developers and engineers. She has a problem with doing testing in a season where there is not maximum groundwater. She suggested testing be done in the spring months when there is maximum groundwater table, because she is against duplicating the effort for others as well as the staff. Mr. Costello asked for the consensus of the Board, to change or not? He suggested this be #2 on next meeting's agenda.

9:40 Mr. Emmons returns from meeting between Acton and Maynard regarding sewer hookup, and gives brief report that there was less animosity than expected from Maynard.

9:45 Recess declared so that Board members can review draft memorandum on septage management program.

10:03 Septage management memorandum to Board of Selectmen reviewed and minor revisions made. It was decided to break the draft memorandum into two separate documents due to the different topics covered.

10:46 Letter from Acton Survey regarding the problem at Strawberry Hill Apartments was reviewed. Mr. Calichman stated that Mr. Dunfey of Acton Survey had posed questions regarding zoning. This repair would need a use variance from the Board of Appeals in putting leach area from the apartments in a non-business area. Also, Mr. Dunfey needs to evaluate the land area available.


10:48 Ice House Pond - Stamski & McNary letter re 138 Great Road. The result of the Board of Appeals meeting was unknown at this time. Board of Health procedures for amendments to zones was discussed. The issue of restrictions where adverse effects would be possible was discussed. Mr. Costello stated that it seemed to him that the Temporary Aquifer Protection Regulations were still in effect. Mr. Stephens stated that the Board had no provision to grant a variance. Mr. Calichman stated if this was something that was not deemed to be an impact, the Board could approve something - the building is in a red zone, but the system is in a yellow zone. Mr. Costello stated that the basic intent of this is to prevent an impact on the environment due to discharge of septage or hazardous material. This is an alteration of an existing use, which is clearly different from what is shown on paragraph 1 of the letter. Mr. Calichman stated that Stamski & McNary ask for a couple of variances and a special permit. They have designed something that does not have a breakout elevation problem. They have substantially less than the 800 square feet that the Board requires for leaching area. Mr. Stephens asked if the leach area was so small to save money, or so that it could fit in the area. Mrs. Sagoff asked for staff recommendation. Mr. Calichman stated there might be a problem with high density. The Board could approve or deny. If you deny, they won't put on a building of this size. Mr. Costello asked what variances were required. Mr. Calichman stated 800 square feet, or is the Board going along with putting a trench system in and designing to Title 5 standards. If you allow Title 5, it will meet Code. Historically, in cases like this, the Board has elected to require sizing between Title 5 and Board of Health requirements. Mr. Costello asked if Mr. Stamski had made out applications for variances, and if the Board were ready to act. Mr. Stephens stated that red zones were no-variance zones. Mr. Calichman stated that, if you look at the map, this property is all in the red zone. Mr. Stephens stated he felt the operative phrase in the TAPR was "as determined by the Board of Health". Mr. Costello stated that, in cases of repairs in a red zone, it would be prudent to grant a variance. Mr. Stephens stated that, all other things being equal, we would be less likely to grant a variance in a red zone. Mr. Costello stated that the application could be turned down for Title 5. Mr. Stephens stated that it was an Article 11 variance. Mr. Costello stated that, also, we have determined that the site falls in the well-buffer zone. Miss Voorhies voiced a desire to table the matter.

Miss Voorhies then moved to table the matter, Mrs. Sagoff seconded, and the vote was unanimous in favor.

Mr. Calichman then brought up the matter of dredging in the tailrace area of the hydroelectric dam. Mr. Lagassa requested guidelines regarding where he should take samples for testing for hazardous materials. The Board's consensus was that two samples should be taken, one at 2 feet deep, at the deep end of the area, and one in the middle of the area, at 1 foot deep.

Mrs. Sagoff moved to adjourn, there being no further business. Miss Voorhies seconded. The meeting adjourned by unanimous vote.

Respectfully submitted,

  
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Carol Holley, Secretary

Signed and approved,

  
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Daniel Costello, Chairman