

Town of Concord
Board of Health

Minutes of the Meeting

Tuesday, September 15, 2009

PRESENT: David J. Burgess, Chairman
Ann M. Snow
Dr. Susanna Bedell

Brent L. Reagor, Public Health Director
Karen M. Byrne, Administrative Assistant

OTHERS: Judith Quanrud, 36 Rollingwood Lane (FinCom)

1. MINUTES & BOARD CALENDAR

The Board reviewed and discussed the minutes from the meeting of August 11, 2009. Ann Snow moved to approve the minutes as submitted. Dave Burgess seconded it. All VOTED in favor.

The Board reviewed the calendar for the upcoming meetings. No changes made.

The Board discussed moving public hearings for variances and discussions to the beginning of the meeting and slating Board business to the end. Starting in October, public hearings will be scheduled for 7:00.

2. CHAIRMAN'S REPORT & REPORTS FROM OTHER BOARD MEMBERS

There were no reports presented.

3. REPORT FROM PUBLIC HEALTH DIRECTOR¹

The Public Health Director (PHD) presented the Board with his monthly update outlining the Health Department's activities since the last meeting.

Influenza

The Public Health Director hosted meeting focusing on pre-planning for the return of the H1N1 virus during the school year. Attendees included nurses from all of the public and private schools in town. The goal of the meeting was to familiarize the nurses with the protocol set by the CDC and the Department of Public Health and set the parameters

¹ Public Health Director's Report - attached

that would allow for the exchange of both clinical and epidemiological information during the flu season.

Soil Testing & New Construction

Stan Sosnicki, Environmental Health Inspector witnessed soil testing for the proposed construction at the Concord Elks facility on Baker Avenue. Soil conditions at the existing lodge demonstrated a limited area of suitable material for onsite sewage disposal and may impact the scope of the development.

During early August, Mr. Sosnicki was also very busy inspecting the new onsite sewage disposal construction at the Nashoba Brooks School. The expanded wastewater system will serve the school and allow for facilities expansion in the future.

4. PUBLIC HEARING – ONSITE SEWAGE DISPOSAL SYSTEM

113 Tarbell Spring Road – Local Upgrade Approval from Title 5

The Board heard a request from Brian O'Sullivan, property owner as it related to the newly constructed onsite sewage disposal system on this property. Mr. O'Sullivan requested that the Board grant one Local Upgrade Approval in accordance with CMR 310, 15.405:

Local Upgrade Approval

- To construct a leaching field approximately 3.6" from the rear property line and distribution less than 1 foot from a property line, instead of 10 feet as required by Title 5.

Background

On June 3, 2009, Stanley Sosnicki, Environmental Health Inspector reviewed a set of plans dated 5/1/09, submitted by Richard Dolan, ABC Cesspool and stamped by Steven Calichman, RS. A permit to construct this replacement system was issued on 6/2/09. The system was installed by Robert Ruggerio, Hillside Group and inspected by Mr. Sosnicki throughout the construction. A Certificate of Compliance was issued on 8/11/09.

The system was installed according to the submitted plan, however, during some survey work conducted for the sale of the property, it was discovered that the lines shown on that plan were inaccurate and created a situation that would require a variance from Title 5.

According to a certified as-built submitted by Douglas Andrysick, PLS, Acton Survey & Engineering, Inc., and an installer's as-built by Robert Ruggerio on 8/18/09, the distribution box was installed within 1-foot of the rear property line and a portion of the leaching field extends over the property line.

Because of this situation, the Public Health Director **REVOKED** the Certificate of Compliance and instructed all parties that the system must be brought into compliance either by obtaining a variance and/or reconfiguring the system design to meet the appropriate setbacks.

A revised proposal was presented to the Health Division relocating the leaching field so that it sits entirely on the property at 113 Tarbell Spring Road, but a variance to 310 CMR 15.211 is still required.

The Public Health Director ordered that once the work to relocate the system is completed and inspected by the Health Division that a new as-built plan must be submitted certifying both the rear property lot line and the location of all system components.

Current Situation

Mr. Reagor advised the Board that the septic system has been moved and re-inspected by the Health Division. Therefore, the request is for an after-the-fact approval. However, he explained that there were still some outstanding issues that needed to be addressed prior to the Board granting the variance and/or a Certificate of Compliance being issued.

On August 18, 2009 the applicant was notified via regular U.S. Postal Service that he was required to obtain a variance from the Board and that abutters required a 10 day notification via Certified Mail of the project. This responsibility fell to the applicant and unfortunately, he failed to do this. (Note: the affected abutters Andrea & Martin Redington were present at the hearing).² Because of this oversight, the Public Health Director advised the Board it could not “legally” hold a hearing to grant approval.

However, in an attempt to assist the current owners in moving forward with the sale of their property, the Public Health Director said that if the Board was inclined it could delegate authority to him as its’ agent. He explained that MGL, Ch. 111, s. 30, stated:

“Boards of Health may appoint agents or directors of public health to act for them in cases of emergency or if they cannot conveniently assemble, and any such agent or director shall have all the authority which the board appointing him had; but he shall in each case within two days report his action to the board for its approval, and shall be directly responsible to it and under its direction and control. An agent or director of public health appointed to make sanitary inspections may make complaint of violations of any law, ordinance, or bylaw to the public health.”

Staff Recommendation

Mr. Reagor said if the Board was inclined to delegate its authority to him in this particular case, then he would recommend that once the entire application package is complete (including proof of certified mail notification of abutters and a certified as-built plan by the system designer and professional land surveyor), that the local upgrade

² Copy of letter from Redinton, 220 Ministerial Drive

approvals be granted to construct a leaching field approximately 3.6” from the rear property line and a distribution box less than 1 foot from a property line, instead of 10 feet as required by Title 5.

Following a brief discussion, David Burgess moved that the Board of Health delegate its authority in accordance with MGL, Ch. 111, s. 30 to Public Health Director Brent Reagor for the purpose of issuing the local upgrade approval for 113 Tarbell Spring Road. Ann Snow seconded it. All VOTED in favor.

5. SEPTIC BETTERMENT

Preliminary Approvals for Betterment Liens

There were none this month.

Final Betterment Lien Assessments

The onsite sewage disposal system for the following property has been completed and all invoices have been processed by the Health Division:

- 65 Allen Farm Lane (\$11,000) - Pearl

Ann Snow moved that the Board issue the Order to Assess the Betterment for the above listed property. Such order shall be forwarded to the Town Collector. Dr. Bedell seconded it. All VOTED in favor.

6. Miscellaneous

David Burgess, Chairman received two “green cards” for review from the Town Manager’s office. The Board has been down one member since Jack Henderson resigned in January 2009. Historically, the Board of Health has consisted of members with professional backgrounds in medicine, nursing, civil engineering, law, and biology because of the broad scope of issues in which they deal. Since Mr. Henderson was a civil engineer, ideally, the next Board member would be as well.

Mr. Burgess said that he would also speak to others at the Chair Breakfast on September 16th to inquire whether they are aware of any civil engineers that may be interested in serving.

The meeting adjourned at approximately 8:00 p.m.

Respectfully submitted by,

Karen M. O'Keefe Byrne
Administrative Assistant

David J. Burgess, Chairman

Ann M. Snow

Dr. Susanna Bedell