

Board of Health Minutes
Monday, January 9, 2023 5:30 PM
Meeting Room C, Town Hall
25 Green Street, Ipswich, MA

Call to Order: Susan Hubbard called the meeting to order at 5:30 PM.

Members in attendance: Susan C. Hubbard, Dr. Susan Boreri and Amanda Donovan.

Others in attendance: Colleen Fermon, Director of Public Health, John Morris, Health Inspector, Jennifer Brown, Administrative Assistant, Daniel Johnson, R.S., Christopher Rokos, P.E., David Kelley, P.E., Daniel Ottenheimer, P.E., Michael Conley, Richard Kallman, Esquire, Derek Prime and Connie Kyriakopoulos.

Citizens Queries: None.

Minutes: Dr. Boreri made a motion to approve the November 21, 2022 Board of Health minutes. Amanda Donovan seconded the motion. The motion passed unanimously. Susan Hubbard made a motion to approve the December 5, 2022 Board of Health minutes. Dr. Boreri seconded the motion. The motion passed unanimously

Hearings:

5:31 – Connie Kyriakopoulos – 8-10 Hammatt Street – Violations of Chapter II of the State Sanitary Code.

John Morris, Ipswich Health Inspector, provided the Board of Health with some background information. As a result of a complaint received, a housing inspection was conducted on September 7, 2022 in accordance with 105 CMR 410.000: State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation. An Order for Correction was issued to the previous owners on September 7, 2022. The owners were ordered to bring the dwelling into compliance with the State Sanitary Code 105 CMR 410.000 within 30 days of the receipt of the order.

Previously, at the October 3, 2022 meeting, the Board reviewed the violations of 105 CMR 410.00. Ms. Kyriakopoulos explained that at the time of inspection her parents owned the property but that the deed was recently transferred into her name. Derek Prime is working with Ms. Kyriakopoulos to resolve these issues and to help her complete the requisite repairs. He explained that Ms. Kyriakopoulos has financial limitations that were preventing her from making the necessary repairs and that she would be applying for a loan. Mr. Prime attested that Ms. Kyriakopoulos was in the process of hiring contractors to make the necessary repairs. He requested an extension since Ms. Kyriakopoulos would not be able to meet the 30 day timeframe for compliance. Mr. Prime thought 6-8 weeks would provide enough time to complete the repairs. It was the decision of the Board of Health to modify the order and grant the owner an extension until December 31, 2022. Ms. Kyriakopoulos was ordered to obtain compliance with 105 CMR 410.000 by December 31, 2022. Compliance included obtaining all required permits, inspections and approvals from the Building Department. A re-inspection was conducted on January 3, 2023 and the violations remained so Ms. Kyriakopoulos was required to attend the January 9, 2023 Board of Health meeting to discuss a timeframe for bringing the dwelling into compliance with 105 CMR 410.000.

At the January 9, 2023 Board of Health meeting, the owner's representative, Derek Prime, explained that Ms. Kyriakopoulos was unable to secure financing to make the necessary repairs to the property so it is now her intention to sell the property. Mr. Prime said there is currently a lien on the property that must be removed before the property can be listed for sale. The owner's Attorney, John Ford, will handle the removal of the lien but it is unclear how long this process will take. It was noted that Ms. Kyriakopoulos has contacted a local real estate agent, Toni Riddle, to sell the property and that the property will be placed on the market to be sold as soon as the lien is removed from the property.

The Board of Health discussed that the violations cited are in two of the three dwelling units (8 Hammatt Street, unit 2 and 10 Hammatt Street) and in the common area. Mr. Morris noted the Building Department was copied on the original order due to means of egress concerns. The Building Department issued its own order on September 9, 2022. One of the violations noted was a noncompliant second means of egress for 8 Hammatt Street, unit 2. Erik Newman, Assistant Building Inspector, conducted an inspection on January 3, 2023 but no written update has been provided but the second means of egress violation was not corrected. Mr. Morris noted the exterior stairs for Unit 10 were repaired by a contractor but the contractor failed to obtain a building permit for the work and the stairs are not approved by the Building Department. It was also noted that the contractor was unlicensed. A licensed contractor is required for work being done on a multi-family dwelling under the Massachusetts Building Code.

The Board of Health reviewed the re-inspection report from January 3, 2023 and recent photos of the violations. Susan Hubbard questioned if 8 Hammatt Street, Unit 2 should be condemned. Mr. Morris said he would like to wait and see if the Building Department will issue an order to vacate the property before discussing whether the dwelling unit at 8 Hammatt Street, unit 2, is unfit for human habitation and whether an order to secure and to vacate should be issued by the Board of Health.

Susan Hubbard made a motion to continue the hearing at the February 6, 2023 Board of Health meeting. Ms. Kyriakopoulos must be prepared to provide the Board of Health with an update on repairs, the lien and putting the property up for sale. Since Ms. Kyriakopoulos failed to remedy the second means of egress violation for 8 Hammatt Street, unit 2, within the time so ordered by the board of health, said violation is deemed to be a condition which may endanger or materially impair the health or safety and well-being of an occupant. At the February 6, 2023 meeting, the Board of Health will conduct a public hearing to determine whether the dwelling unit at 8 Hammatt Street, unit 2, is unfit for human habitation and whether an order to secure and to vacate should be issued. Dr. Boreri seconded the motion. The motion passed unanimously.

The Board of Health said that while the property is under a Board of Health Order for Correction for violations of the State Sanitary Code 105 CMR 410.000, the owner must share this information with the realtor and potential purchasers.

5:46 – Michael Conley – 9 Bunker Hill Road – Violations of Chapter II of the State Sanitary Code.

John Morris, Ipswich Health Inspector, provided the Board of Health with some background information. As a result of a complaint received, a housing inspection was conducted on December 20, 2022 at 9 Bunker Hill Road, Ipswich, in accordance with 105 CMR 410.000: State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation. An Order for Correction was issued to the owner on December 20, 2022. The owner was ordered to bring the dwelling unit into compliance with the State Sanitary Code 105 CMR 410.000 within 30 days.

The property owner, Michael Conley, received the order on December 27, 2022 and requested a meeting with Mr. Morris to review the violations. Mr. Morris met with Mr. Conley on December 30, 2022 to review the violations. At the meeting, it was explained by Mr. Morris that the time frame for correction of the life/safety violations is 5 days from the issuance of the Order for Correction. The remaining violations needed to be corrected within 30 days of the December 20, 2022 order, by January 19, 2023. Mr. Conley stated that he could not complete repairs within the prescribed timeframe. Mr. Conley also noted that he retained Rich Kallman as his attorney.

On January 3, 2023, the Public Health Department received a request for a hearing before the Board of Health from Richard Kallman, Esquire.

At the January 9, 2023 Board of Health meeting, the Board reviewed the violations of 105 CMR 410.000 and the check list provided by Mr. Conley at the meeting. Mr. Conley explained that he has made some of the repairs and has the Building Department coming to the property to evaluate the work done without permits and the means of egress for the lower level. At the meeting, the owner's representative, Richard Kallman, Esquire, explained that Mr. Conley is in the process of evicting the occupant and is scheduled for an Eviction Process Summary Hearing for non-payment of rent on January 23, 2023. Mr. Kallman requested an extension to allow the court hearing and then once the tenant has been removed from the property, the owner will complete the necessary repairs.

Mr. Morris re-iterated that the addition of a kitchen in the lower level was done without appropriate permits. The owner did get a permit around 2012 to finish the basement for an office and playroom. The lower level is now being rented as a dwelling unit by the occupant. A Cease and Desist Order was issued on December 27, 2022 by the Building Department for use of the lower level apartment.

Susan Hubbard questioned if the basement dwelling unit should be condemned. Mr. Morris explained that the Building Department needs to evaluate if the means of egress violation rises to the level of risk that the unit should not be occupied. The Board of Health discussed if the lower level dwelling unit may be unfit for human habitation and whether an order to secure and to vacate should be issued.

Susan Hubbard made a motion to continue the hearing at the February 6, 2023 Board of Health meeting. At the February 6, 2023 meeting, the Board of Health will conduct a public hearing to determine whether the lower level dwelling unit at 9 Bunker Hill Road is unfit for human habitation and whether an order to secure and to vacate should be issued. Dr. Boreri seconded the motion. The motion passed unanimously.

6:09 – 59 Turnpike Road LLC – 59 Turnpike Road – Represented by Meridian Associates, Inc. – Soil Test Results Extension.

David Kelley, P.E., presented, and a request for a variance to Ipswich Board of Health Septic System Regulations 8.9; which states that soil testing conducted for new construction or upgrades shall be valid for two (2) years from the date of testing was heard. Soil testing was conducted on March 16, 1999 and March 4, 2002 at 59 Turnpike Road.

Colleen Fermon, Director of Public Health, provided the Board members with some background information. On August 4, 2017, the Board approved a subsurface sewage design system but the disposal system construction permit expired before the system was installed. Previously, at the June 6, 2022 meeting, it was the decision of the Board of Health to grant a variance and extend the use of the soil testing results conducted on March 16, 1999 and March 4, 2002 until December 31, 2022. On December 8, 2022, the owner's representative, Christopher Rokos of Meridian Associates, Inc., requested another extension.

At the January 9, 2023 meeting, David Kelley, P.E., of Meridian Associates, Inc., requested the use of the soil testing from March 16, 1999 and March 4, 2002 for the purpose of septic design. He explained that the owner needed to secure financing so the septic system design had not been submitted but he is now ready to move forward with the development of the property. Mr. Kelley explained since the soil testing was completed, clearing and grading of the property was done with the exception of the primary and reserve areas which remained unchanged.

Susan Hubbard made a motion to grant a variance and extend the use of the soil testing results conducted on March 16, 1999 and March 4, 2002 until December 31, 2023. Amanda Donovan Seconded the motion. The motion passed unanimously.

6:15 – Jon Ording –128 Argilla Road – Represented by Domestic Septic Design, Inc. – Septic System Design Variances.

Daniel Johnson, R.S., presented, and a hearing was conducted to consider variances from Title 5 and Ipswich Board of Health Septic System Regulations for a sewage disposal system plan # J-2805 designed by Daniel Johnson, R.S., dated December 5, 2022 and revised December 13, 2022 for the 4-bedroom dwelling located at 128 Argilla Road, Ipswich, Massachusetts.

Mr. Johnson said this is a voluntary upgrade of the existing system. He explained that this is a long, narrow lot with the salt marsh located in the backyard and the Area of Critical Environmental Concern (ACEC) located in the front yard. Mr. Johnson proposed the use of a 1,500 gallon septic tank and a new leaching field for the upgrade and requested the following variances:

- A 5 foot reduction in the setback between the leach area and the crawl space. A 15 foot setback is provided.
- A reduction in the 150 foot setback between the septic tank and the Area of Critical Environmental Concern (ACEC) and the building sewer. A 140 foot setback is provided.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon said this was a reasonable approach given the site constraints. She recommended granting the variances as requested with the condition that an Ipswich licensed installer must come to the Public Health Office prior to beginning the project to complete the application and submit a trench permit application signed by the owner and the \$50 trench permit fee. The installer will receive the disposal system construction permit, the trench permit and a signed copy of the approved plan.

Susan Hubbard made a motion to approve the plan and grant the variances as requested with the condition as enumerated by Colleen Fermon. Dr. Boreri seconded the motion. The motion passed unanimously.

6:19 – David and Wambui Updike – 62 Labor-In-Vain Road – Septic System Installation and Water Supply Discussion.

Colleen Fermon provided the Board members with some background information. The system serving the property failed a Title 5 inspection on March 29, 2021. In accordance with the State Environmental Code, Title 5, 310 CMR 15.00, the owner was ordered to replace the system on or before March 29, 2023. Previously, at the February 1, 2021 meeting, Hugh Graham, of H.L. Graham Associates, Inc. said the property would be divided but the well currently serving the main house, cottage and garage dwelling would continue to serve the 1 bedroom dwelling. In accordance with Ipswich Board of

Health Regulations for Private Wells, each private well shall be located on the same lot as the building it serves and therefore the existing well could not be used as a water supply, if the lot is divided as planned unless a variance is obtained. It was the decision of the Board of Health to continue the discussion to allow time for a water supply plan to be confirmed. The Board of Health said they would continue the variance discussion at their March 8, 2021 meeting. The septic system design plan would need to be revised to show the proposed water supply and be submitted for approval before the March meeting. At the March 8, 2021 Board of Health meeting, a hearing was conducted to consider variances from Title 5 and Ipswich Board of Health Septic System regulations for a sewage disposal system plan # 20-2046 designed by Hugh L. Graham, P.E., dated December 14, 2020 and revised February 25, 2021 for the 1 bedroom dwelling located at 62 Labor-In-Vain Road, Ipswich, Massachusetts. It was the decision of the Board to grant the variances with conditions.

To date, the sewage disposal system plan has not been approved since the conditions of approval have not been met so the system has not been installed. Additionally, the property has not had a water supply since the lot was divided in early 2021 so this issue needs to be addressed. The sewage disposal system plan # 20-2046 designed by Hugh L. Graham shows the property will be connected to town water but, subsequently, the owner felt that option was not financially feasible. The owner was requested to attend the January 9, 2023 Board of Health meeting to discuss the water supply situation with the Board of Health to bring the property into compliance and to determine a new timeline for the installation of the septic system.

At the January 9, 2023 Board of Health meeting, the owner's representative, Daniel Ottenheimer, P.E., of Mill River Consulting, explained that he is working on a cistern plan that will be presented to the board for approval as a water supply in the upcoming months. He said the owner intends to use the property occasionally on the weekends and the cistern option is financially the best option for this property. Once the water supply is approved, the sewage disposal system plan can be revised to reflect the legal boundaries after the property was divided and the water supply. The owner needs an extension for the upgrade of the septic system.

Dr. Boreri explained that a cistern is a private water system that uses rainwater collected from a roof or other rain collection device as a source of water for human consumption. The mechanics of a cistern vary by system, but the main concept remains the same. The collection process usually starts on a rooftop where gravity pulls rainwater towards pipes leading to a cistern tank. Water passes through mesh screens to prevent large debris from entering the tank. The collected water is stored underground where temperature changes are less likely to be an issue. The water is also better protected from animals and insects. She also noted that cisterns are expensive to upkeep to the point where connecting to town water may be more financially feasible. Does the owner know the cost of maintaining a cistern?

Daniel Ottenheimer explained that he is working on a cistern that will receive trucked in potable water. The cistern will be above ground and inside the lower level of the building.

Susan Hubbard questioned why a well was not pursued as a water source. Colleen Fermon noted that, previously, at the March 8, 2021 Board of Health meeting, it was explained that the owner would prefer to utilize a new well rather than town water since it was more financially feasible. Ms. Fermon said she was subsequently informed by the homeowner that the installation of a well was not financially feasible and that the connection to town water would be very expensive since the connection is approximately 1,000 feet away from the dwelling. Ms. Fermon was not given any qualification for "expensive" for either water supply option.

Mr. Ottenheimer, explained that the use of a well was discussed by the homeowner with a well driller and it is likely a well would draw brackish water.

Colleen Fermon agreed that the well water would most likely require treatment but the cost of the treatment is not known.

The Board of Health discussed that costs associated with each water supply option (town water, private well, cistern) must be provided if financial feasibility is the owner's reason to request approval of the use of a cistern.

Susan Hubbard made a motion to grant an extension for the installation of the upgraded septic system until December 15, 2023 to allow time to obtain both a water supply approval and a sewage disposal system plan approval. Dr. Boreri seconded the motion. The motion passed unanimously.

6:43 – Director of Public Health Report:

One Stop: One Stop has offered to obtain a sharps kiosk for Ipswich. Previously, at the December 5, 2022 meeting, the Board of Health felt the Council on Aging or another location in Town Hall would be best. Subsequently, the option of having the kiosk located at the Ipswich Housing Authority (IHA) is being considered.

Ms. Fermon explained that all Sharps Collection Centers including kiosks shall be inspected by the Board of Health once prior to initial operation to ensure compliance with the requirements of 105 CMR 480.000. For this kiosk, One Stop will be the operator of the Sharps Collection Center since it will hold the agreement with the medical waste transporter.

COVID-19 Test Kits: The Public Health Department is offering free COVID-19 at-home rapid antigen tests from iHealth. The free at-home rapid antigen tests from iHealth Labs can be picked up from the Public Health Department, Library, and the Council on Aging (COA). Ms. Fermon said that as of January 9, 2023, there were no more test kits available. The Public Health Department placed a second order for test kits on December 14, 2022 which is expected to arrive soon. Once the test kits arrive they will be distributed to the same 3 locations.

Bottomless Sand Filter: Pursuant to MA DEP's Approval for Remedial Use for the (BSF) the installation must be supervised by the designer (a Massachusetts (MA) Registered Professional Engineer or MA Registered Sanitarian) who is appropriately trained through the University of Rhode Island (URI) Onsite Wastewater Training Program. Colleen Fermon informed the Board of Health that one person should hold both credentials not two people each possessing one credential. The Board of Health agreed.

Next Board Meetings: The next meetings of the Board of Health are scheduled for February 6, 2023, March 6, 2023, April 3, 2023, May 1, 2023, June 5, 2023, and July 10, 2023. All meetings will start at 5:30 PM and be in Town Hall, Meeting Room C.

Adjourn: Dr. Boreri made the motion to adjourn at 6:58 PM. Susan Hubbard seconded the motion. The motion to adjourn passed unanimously.

Documents used at the January 9, 2023 Board of Health meeting:

- Letter from Chris Rokos dated December 8, 2022 for 59 Turnpike Road.
- Letter and Email from Colleen Fermon dated December 1, 2022 for 62 Labor-In-Vain Road.
- Emails dated December 12, 2022 from Colleen Fermon to H.L. Graham Associates Inc, Dan Ottenheimer and David Updike regarding 62 Labor-In-Vain Road.
- Letter dated December 7, 2022 from Colleen Fermon regarding 62 Labor-In-Vain Road.
- Subsurface Sewage Design Plan for 128 Argilla Road.
- Chapter II of the State Sanitary Code, 105 CMR 410.00.
- Title 5.
- 8-10 Hammatt Street Re-inspection Report dated January 3, 2023 completed by John Morris.
- Email dated January 3, 2023 from John Morris regarding 8-10 Hammatt Street.
- Inspection Report and Order for Correction dated December 20, 2022 for 9 Bunker Hill Road completed by John Morris.
- Email dated January 3, 2023 from John Morris regarding 9 Bunker Hill Road.

Susan C. Hubbard, Chairperson

Dr. Susan Boreri, Board Member

Amanda Donovan, Board Member