

Board of Health Minutes
Monday, May 3, 2021 5:30 PM
Zoom Meeting
25 Green Street, Ipswich, MA

The Board of Health participated in this meeting remotely utilizing Zoom in accordance with the Governor's March 12, 2020 Order suspending provisions of Open Meeting Law and to promote public health and social distancing.

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

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

Others in attendance: Colleen Fermon, Director of Public Health, Gerard McDonald, P.E., Michael Lord, Fred Ebinger, John Morin, P.E. and Louis Rubino.

Citizens Queries: None.

Minutes: The April 12, 2021 minutes were not ready for approval.

Hearings:

5:31 – Michael Lord and Fred Ebinger – 31 Greens Point Road – Local Upgrade Approval

Previously, at a meeting of the Board of Health on March 13, 2017 approval of tight tank plan #14-1418 designed by Hugh L. Graham, P.E., dated February 6, 2017 and last revised February 22, 2017 for 31 Greens Point Road, Lot 8B was granted along with the associated requests.

In a letter dated June 25, 2020, the owner was reminded that the installation commenced in August 2019 but had not been completed. The addition that was proposed was put on hold and it seemed the building sewer and electrical work for the tight tank were not completed. The owner was asked to contact the Public Health Department to discuss their plans to complete the installation since the building remains in use but it is not in compliance with Title 5.

On July 13, 2020, Mr. Ebinger contacted Colleen Fermon and said it was not clear if the building addition would be pursued. At the November 9, 2020 meeting, Mr. Lord explained that the building addition would not be pursued but he intended to install 2 bathrooms inside the existing structure and complete the building sewer and electrical work for the tight tank.

It was the decision of the Board of Health that the building sewer and electrical work for the tight tank must be completed by June 30, 2021 to bring the property into compliance with Title 5.

On April 8, 2021, Colleen Fermon was contacted by the Installer, George Hulbert Jr., since the building sewer location was within ten (10) feet of the installed water line. Pursuant to Title 5, 310 CMR 15.222 (2), a ten (10) foot setback is required between a well water suction line and the building sewer so a Local Upgrade Approval reduction would need to be approved by the Board of Health.

Gerard McDonald, P.E., Michael Lord, and Fred Ebinger presented, and the Board heard a request for a Local Upgrade Approval to allow the sewer location to be within ten (10) feet of the installed water line. A (1) foot setback is provided. At the meeting, Septic Designer, Gerard McDonald, P.E., stated that earlier that afternoon he confirmed that the pump was in the well and the well water supply line is a pressure line, not a suction line, so a Local Upgrade Approval is not needed. Mr. Lord and Mr. Ebinger agreed with this information.

Colleen Fermon explained that a pressure line does not require a ten (10) foot setback to the water line.

Based on the new information provided, it was the decision of the Board of Health that a Local Upgrade Approval was not needed and the building sewer and water line can remain as constructed with a one (1) foot setback being provided.

5:40 – Michael Lord and Fred Ebinger – 171 Town Farm Road – Represented by The Morin-Cameron Group, Inc. – Proposed Tight Tank Design

John Morin, P.E., Michael Lord, and Fred Ebinger presented, and the Board held a discussion to consider septic system upgrade options for 171 Town Farm Road.

At the meeting the owner's representative, John Morin of The Morin Cameron Group, Inc., said the existing one (1) bedroom dwelling is located in the Area of Critical Environmental Concern (ACEC) and the flood plain. It is the owners' intention to raze and rebuild the dwelling further from the wetlands. The dwelling is currently served by a well and a composting toilet.

Mr. Morin explained that soil testing was conducted on May 6, 2020 to determine if there were acceptable soils for a subsurface sewage disposal system. It was not possible to run a percolation test so a sieve analysis was performed. The parent soil was classified as silty clay loam on site by the soil evaluator. The sieve results showed that the soil was classified as silty clay. Based on this data and site constraints due to a sensitive resources, a Bottomless Sand Filter system or a tight tank would be the only options for the upgrade of the system.

Mr. Morin said the soils are not ideal for a Bottomless Sand Filter even though the soils appear to support the design of a subsurface sewage disposal system. Mr. Morin believed a Bottomless Sand Filter would fail prematurely (within 4-6 years) due to the soil structure. He requested the Board of Health determine a Bottomless Sand Filter is not a feasible long term alternative for the upgrade of the system and to allow the use of a tight tank.

Mr. Morin also noted that the owner is proposing a new well. The well can meet the required setbacks. The septic system and well would also need Conservation Commission approval. Also, if Conservation Commission allows it, a small one room studio with only electricity will be built.

The Board noted that approval of a tight tank may be granted only to eliminate a failed on-site system when no other feasible alternative to upgrade the system in accordance with 310 CMR 15.201 through 15.293 exists except as provided in 310 CMR 15.260(8).

Susan Hubbard made a motion that a Bottomless Sand Filter was not a feasible alternative for the upgrade of the system and allowed the use of a tight tank for the upgrade design. Dr. Boreri seconded the motion. The motion passed unanimously.

It was noted that the one-bedroom tight tank plan will be brought before the Board of Health for approval

5:45 – MMC Realty Holdings, LLC – 126 -128 High Street – Represented by HL Graham Associates, Inc – Project within the Water Supply Protection District

Hugh L. Graham, P.E., and Louis Rubino presented, and the Board reviewed the Special Permit Application for a redevelopment project located at 126 and 128 High Street. In accordance with the Water

Supply Protection District Special Regulation in the Zoning Bylaw, the Planning Board must seek the input of the Water Commissioners, Board of Health, Conservation Commission and Utilities Department.

At the meeting, Hugh L. Graham of H.L. Graham Associates, Inc., noted the multifamily project is located in the Highway Business and Water Supply Protection District, Zone II. He explained that the properties will be combined. The current access to 128 High Street will be closed and a single, common driveway will be provided for both the commercial and residential buildings. The commercial building at 126 High Street (Spa Tech Institute) will remain and the existing two-unit residential building will be razed and replaced with three, two unit buildings. Each unit will have three bedrooms. Town water and sewer is proposed for the new dwellings. Mr. Graham noted that 128 High Street is currently served by an onsite septic system. The sewage disposal system will be abandoned in accordance with 310 CMR 15.000, The State Environmental Code, Title 5.

Mr. Graham said he is addressing storm water management with two infiltration systems. The commercial building will remain. Mr. Graham also noted that the proposed plan provides for less impervious area than exists today. The Board reviewed the architectural design, planting and permit plans.

Susan Hubbard made a motion to support the redevelopment project for 126/128 High Street. Dr. Boreri seconded the motion. The motion passed unanimously.

6:00 - Director of Public Health Report:

Mosquito Control Opt-Out:

In April 2020, Governor Charlie Baker filed legislation to help combat diseases transmitted by mosquitoes, including arboviruses like Eastern Equine Encephalitis (EEE) and West Nile Virus (WNV), by authorizing a coordinated, proactive, statewide approach to mosquito control activities. The legislation, *An Act to Mitigate Arbovirus in the Commonwealth*, empowered the State Reclamation and Mosquito Control Board (SRMCB) to engage in mosquito control activities across the Commonwealth, including in areas where there is no legislative authority to take action today, should the Department of Public Health (DPH) determine that an elevated risk of mosquito-borne diseases exists.

The Select Board could consider an Application for Municipality Opt-Out of SRMCB Spraying. Colleen Fermon was notified today, May 3, 2021, that the Opt-Out application is due by May 15 and requires Board of Health input and an alternative plan if Opt-Out approval is being sought.

M.G.L. Chapter 252, Section 2A(b)(2) allows a municipality to opt out of spraying, either aerial or other mosquito control spraying, conducted by the State Reclamation and Mosquito Control Board (“SRMCB”) conducted under M.G.L. c. 252, Section 2A(a). For the SRMCB to recognize a municipal opt out, the municipality must first have an alternative management plan (“Plan”) approved by the Executive Office of Energy and Environmental Affairs (“EEA”). In accordance with the M.G.L. c. 252, Section 2A(b)(2), EEA has developed the following guidance on the development and approval of a Plan.

The following steps must be completed by the municipality prior to submitting a Plan to EEA for its review:

The municipality must hold a meeting of the City Council or Select Board, at which a vote must be taken indicating the municipality’s intention to opt out of spraying (including aerial or other mosquito control spraying) conducted by the SRMCB.

1. This meeting should include input on the Plan from the local board of health and allow for public comment.
2. The vote should include the following:
 1. The date and time of the public meeting
 2. That the board of health was consulted;
 3. That public comment was allowed;
 4. Whether the municipality is opting out of all spraying or only certain spray activities, such as aerial spraying. If a vote does not include that it is for a specific type of spraying, the vote will cover all spray activities conducted by the SRMCB under M.G.L. c. 252, Section 2A; and
 5. That the vote to opt out will only be honored if an alternative mosquito management plan is submitted and approved by EEA.
 6. The municipality must provide a copy of the certified vote as part of the application for approval of a Plan.
 7. The municipality must complete this application for approval of a Plan and submit it to EEA at the following address: EEAopt-out@mass.gov
 8. All applications must be received by May 15th of the year for which the request is being made.
 9. This process applies only to municipalities. Any other requests to opt out of spraying or exclude private property must be made in accordance with M.G.L. c. 252 or 333 CMR 13.00. More information on these options is available on the SRMCB web page: [How to Request an Exclusion or Opt-out from Wide Area Pesticide Applications](#)

The Board of Health felt that the town should opt-out since they feel the current mosquito control BMP is sufficient and are concerned of not having a say if the state decides to spray the entire town if it is determined there is an elevated risk of arbovirus. They said if this could not be accomplished this year due to the short timeline they want the process to be started for the following year.

COVID-19 Case Update: Colleen Fermon said Ipswich has had 785 confirmed COVID-19 cases since March 1, 2020. Currently we have 26 active cases, people under isolation.

COVID-19 Vaccine Update: A Regional COVID 19 Clinic plan was submitted to the state for approval for a second time once revised to eliminate any involvement of private companies.

The Regional Youth Prevention Network: The Regional Youth Prevention Network received a 2 year, \$125,000 grant to prevent substance abuse. Ipswich is a member of this network.

Face Covering Order: The Governor's Face Covering Order was amended on April 29, 2021. Face coverings are no longer required in outdoor spaces provided 6 feet of social distancing can be maintained. This change is aligned with the Emergency Regulation adopted by the Board of Health on May 11, 2020.

13 Liberty Street: The owner of 13 Liberty Street has not complied with the written compliance plan and the Board's order set forth on February 1, 2021. The Board ordered the owner to obtain compliance by April 30, 2021. A demolition permit for the removal of the barn was obtained on March 16, 2021 but a re-inspection was conducted on April 30, 2021 and the barn remains. A criminal complaint will be filed in Court against the owner.

24 Allen Lane: At the December 7, 2020 meeting, the Board of Health required the owners of 24 Allen Lane to provide the following documentation to the Public Health Department on or before January 15, 2021:

- A Notice of Alternative Disposal for the Waterloo Biofilter systems must be filed at the Southern Essex County Registry of deeds with a recorded copy provided to the Health office prior to the issuance of the Disposal System Construction Permit.
- A Lifetime Maintenance restrictive covenant for the Pressure Distribution system must be filed at the Southern Essex County Registry of Deeds with a recorded copy provided to the Public Health Office prior to the issuance of the Disposal System Construction Permit.

Additionally, the Board of Health said if the system is not installed on *or* before May 15, 2021, the dwelling would be deemed unfit for human habitation and an order of condemnation would be issued since the dwelling is being served by a failed septic system that has not been upgraded within two years of the failure. The condemnation order would require all occupants to vacate and secure the dwelling. If condemned, the dwelling unit shall not be occupied without the prior written permission of the Board of Health.

In accordance with the Boards' order, a Criminal Complaint was filed with the Northeast Housing Court against the property owners on January 21, 2021. A probable cause hearing for the 3 owners is scheduled for May 13, 2021.

A discussion will be held at the June 7, 2021 Board of Health meeting to consider deeming the dwelling unfit for human habitation since it does not have an approved wastewater disposal system

Next Board Meetings: The next meetings of the Board of Health were scheduled for June 7, 2021, July 12, 2021, August 2, 2021, September 13, 2021, October 4, 2021, November 1, 2021 and December 6, 2021 at 5:30 PM.

Adjourn: Susan Hubbard made the motion to adjourn at 6:36 PM. Dr. Boreri seconded the motion. The motion to adjourn passed unanimously.

Documents used at the May 3, 2021 Board of Health meeting:

- Ipswich Board of Health Septic System Regulations.
- 310 CMR 15.000, Title 5.
- Zoning Bylaw Section C Water Supply Protection District.
- Septic Design Plan for 31 Greens Point Road.
- Letter dated November 16, 2020 from Colleen Fermon regarding 31 Greens Point Road.
- Letter dated April 21, 2021 from Michael Lord regarding 31 Greens Point Road.
- Letter dated November 16, 2020 regarding 31 Greens Point Road.
- Email dated April 7, 2021 from Ethan Parsons with attachments for 126/128 High Street.
- Emails dated March 17, 2021 and April 22, 2021 from John Morin, P.E., regarding 171 Town Farm Road.

Susan C. Hubbard, Chairperson

Dr. Susan Boreri, Board Member

Amanda Donovan, Board Member