

Board of Health Minutes
Monday, June 7, 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 Boreri called the meeting to order at 5:30 PM.

Members attending: Dr. Susan Boreri and Amanda Donovan were in attendance. Susan C. Hubbard was not in attendance.

Others in attendance: Colleen Fermon, Director of Public Health, John Morris, Health Inspector, Jennifer Brown, Public Health Administrative Assistant, Daniel Johnson, R.S., and John E. Quigley.

Citizens Queries: None.

Minutes: Amanda Donovan made a motion to approve the April 12, 2021 and May 7, 2021 Board of Health minutes as written. Dr. Boreri seconded the motion. The motion passed unanimously.

Hearings:

5:31 – John A. Quigley, Marion A. Quigley and Wendy R. Quigley – 24 Allen Lane – Hearing to Determine if Dwelling is Unfit for Human Habitation

John E. Quigley represented the owners and a hearing was held to determine if the dwelling at 24 Allen Lane is unfit for human habitation since it does not have an approved wastewater disposal system. John E. Quigley stated, for the record, that he was representing all parties involved in the matter. Another Quigley appeared to have called into the meeting.

Colleen Fermon explained that in 2017, 24 Allen Lane was owned by Richard and Eileen Kellow as joint tenants. On February 1, 2017 the system failed a Title 5 inspection as indicated on the title 5 report filed with the Health Department by D.F. Clark Inc. and with John E. Quigley for the Kellows. John E. Quigley's wife, Amber Quigley, was the Executrix of the Estate of Eileen Kellow. The certified mail card for the order to upgrade the septic system was signed by John E. Quigley and the card was received back in the Public Health Office on March 21, 2017. In accordance with 310 CMR 15.000, Title 5, the owner was ordered to upgrade the septic system within 2 years from the date of inspection; by February 1, 2019.

On November 4, 2019, a septic system upgrade plan for John E. and Amber Quigley for 24 Allen Lane was submitted for approval. At the November 18, 2019 Board of Health meeting, a hearing was conducted to consider variances from Title 5 and Ipswich Board of Health Septic System Regulations and Alternative Technology Waivers for a sewage disposal system plan # 19-1924 designed by Hugh L. Graham, P.E., dated September 23, 2019 and revised November 4, 2019 for the three-bedroom dwelling located at 24 Allen Lane, Ipswich, Massachusetts. It was the decision of the Board of Health to approve the plan with conditions of approval which included the condition that the system must be installed with the Certificate of Compliance issued by May 30, 2020.

At the January 13, 2020 Board of Health meeting, John E. Quigley appeared and informed the Board he intended to have the system installed by April, 2020. The Board ordered that Mr. Quigley provide the name of the installer and a signed contract to the Public Health Office by January 23, 2020. Mr. Quigley

did provide a contract with DF Clark on January 20, 2020 but the system was not installed by May 30, 2020 although David Clark of D.F. Clark, Inc. was hired and given a down payment to do the upgrade.

In early November, 2020, it was determined that on February 15, 2019 Amber Quigley transferred the property to the current owners John A, Marion A and Wendy R Quigley. The Quitclaim Deed was recorded on April 11, 2019. The new owners were sent letters dated November 4, 2020 requiring them to attend the December 7, 2020 meeting to discuss a timeframe to upgrade the septic system.

On December 7, 2020 the Ipswich Board of Health held a hearing regarding the failed septic system now owned by John A, Marion A and Wendy R Quigley. At the December 7, 2020 hearing John E. Quigley informed the Board that he was representing all parties in the matter. The Board of Health reviewed the file history and discussed the failure to have the system completed by now. The remaining conditions which needed to be complied with before the septic installer could obtain the disposal permit were:

- 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

Mr. Quigley told the Board he would complete the necessary documents for filing at the Southern Essex Registry of Deeds on or before January 15, 2021 and would submit these documents to the Public Health Department for issuance of a disposal works permit. Mr. Quigley informed the Board that the system would be installed on or before May 15, 2021.

On December 7, 2020, it was the decision of the Board of Health that the system must be installed by May 15, 2021. Additionally, the Mr. Quigley was informed that if the Notice of Alternative Disposal for the Waterloo Biofilter and the Lifetime Maintenance restrictive covenant for the Pressure Distribution system have not been filed with the Southern Essex County Registry of Deeds on or before January 15, 2021 or 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.

The Notice of Alternative Disposal for the Waterloo Biofilter systems was filed at the Southern Essex County Registry of deeds on January 15, 2021 and received January 19, 2021. The Lifetime Maintenance restrictive covenant for the Pressure Distribution system was not submitted for Colleen Fermon's signature until May 4, 2021 and it was filed at the Southern Essex County Registry of Deeds the same day.

On May 10, 2021, the Installer, David Clark, provided proof of the recording and explained he is unable to start the job until July, 2021 since he has other projects he committed to before being notified by Mr. Quigley that the conditions of approval had been complied with.

Mr. Quigley confirmed the Installer gave a start date of July, 2021. Mr. Quigley said he believed D.F. Clark could install the system in May 2021 but when he found out test wouldn't happen it was not possible to get another Installer for the installation. It was his intention to have the system installed in a few weeks based on the availability of the Installer.

Dr. Boreri questioned why the system had not been installed since Septic Installers have been working all through COVID-19. Mr. Quigley was unaware until 2020 that he did not own the property. The current owners, John A. Quigley, Marion A. Quigley and Wendy R. Quigley, were not made aware of the failed septic system and the order to upgrade the septic system until 2020.

Dr. Boreri explained that the system has been in failure for 4 years and is failing to protect the public health, safety, welfare and the environment.

John E. Quigley claimed that the violation didn't begin until December 7, 2020 since the new owners were not notified of the failed septic system until then.

John Morris, Health Inspector, attested that John E, Quigley has represented all parties involved since the first court hearing on August 7, 2019.

Dr. Boreri believed the Board had no choice but to deem the building unfit for human habitation. Mr. Quigley asked if it was the Boards' opinion that the dwelling was uninhabitable only because of the failed septic system. Dr. Boreri confirmed this and informed John E. Quigley that in accordance with 105 CMR, 410.300, the owner shall provide, for each dwelling, a sanitary drainage system, and shall maintain in a sanitary condition, a means of sewage disposal which is in compliance with 310 CMR 15.00: Subsurface Disposal of Sanitary Sewage (Title V). The dwelling has not been served by a septic system in compliance with 310 CMR 15.00 since February 1, 2019 which is a violation of 105 CMR 410.300.

John E. Quigley stated that the septic system was fully operational. Dr. Boreri read the Title 5 inspection report results from the failed Title 5 inspection report dated February 1, 2017, *The failure condition found to exist is the soil absorption system extends below the high groundwater elevation. [failure criteria outlined in 310 CMR 15.303(1)(a)(7)].*

John E. Quigley said that the system did not need to be inspected in 2017 since it was an interfamily transfer. Ms. Fermon explained that once a Title 5 inspection is submitted to the Public Health Department it becomes an official report and if there is a failure and compliance must be obtained within 2 years of the failure date. This deadline was not complied with as well as all other subsequent deadlines set forth by the Board of Health.

Dr. Boreri noted that the Board has worked with Mr. Quigley on this for years and has given Mr. Quigley extensions so that compliance could be obtained. Amanda Donovan concurred.

Dr. Boreri made a motion that the dwelling is unfit for human habitation and an order of condemnation was issued. This decision was based on the following:

- The existing septic system is failing to protect the public health, safety, welfare and the environment as documented by the February 1, 2017 inspection by the approved Title 5 System Inspector. The failure condition found to exist is the soil absorption system extends below the high groundwater elevation. [failure criteria outlined in 310 CMR 15.303(1)(a)(7)]
- The septic system was not upgraded in accordance with the timeframe of two years outlined in 310 CMR 15.305 (1).
- The septic system was not upgraded within the timeframe ordered by the Board of Health. [violation of Title 5 pursuant to 310 CMR 15.024 (7)]
- The dwelling is not served by a septic system in compliance with 310 CMR 15.00 which is a violation of 105 CMR 410.300.

This motion included that all occupants must vacate and secure the dwelling on *or* before June 14, 2021. The dwelling unit shall not be occupied without the prior written permission of the Board of Health based upon the Board's written finding that the dwelling is fit for human habitation. The dwelling will be deemed fit for human habitation once the Certificate of Compliance for the sewage disposal system has been issued.

6:00 – Claire Phillips – 40 North Ridge Road – Represented by Daniel Johnson, R.S. - Septic System Design Variances

Daniel Johnson, R.S., presented, and a hearing was held to consider variances from Title 5 and Ipswich

Board of Health Septic System Regulations for a sewage disposal system plan # J-2690 designed by Daniel Johnson, R.S., dated March 17, 2021, and last revised May 20, 2021 for the 3 bedroom dwelling located at 40 North Ridge Road, Ipswich, Massachusetts.

Colleen Fermon informed the Board that certified mail cards were provided to the Public Health Department as proof the 3 abutter's were notified of the hearing.

Mr. Johnson said this is a voluntary upgrade of the existing 3 bedroom system. He provided an orientation of the property and explained that the property is impacted by the coastal bank and the Area of Critical Environmental Concern (ACEC). He requested the following variances:

- A reduction in the setback from the leaching area to the water line. A 5 foot setback is provided.
- To allow the use of a sieve analysis in lieu of a percolation test.
- A reduction in the setback from the MicroFast tank to the foundation. A 5 foot setback is provided.
- A reduction in the setback from the pump chamber to the foundation. A 5 foot setback is provided.
- A reduction in the setback from the MicroFast tank to the property line. A 5 foot setback is provided.
- A reduction in the setback from the pump chamber to the property line. A 5 foot setback is provided.
- A reduction in the setback from the pump chamber to the water line. A 2.5 foot setback is provided.
- A reduction in the setback from the leaching area to the property line. A 7 foot setback is provided.
- A reduction in the separation between the septic tank inverts and MicroFast tank and Estimated Seasonal High Groundwater (ESHGW). All inverts will be within a few inches of (ESHGW).
- A reduction of design flow rate from 150 gallons/bedroom/day to 110 gallons/bedroom/day.
- To allow a reduction in the setback from the leaching area, MicroFast tank, and pump chamber to the wetlands from the 100 foot local requirement. The setbacks provided are 62 feet for the leaching area, 34 feet for the MicroFast Septic Tank, and 49 feet for the pump chamber.

Dr. Boreri asked Colleen Fermon for her thoughts. Colleen Fermon recommended granting the variances as requested with the following conditions:

- A two year Operations and Maintenance contract for the MicroFast tank and Geoflow Dip Tubing system must be submitted to the Public Health Office prior to the issuance of the Disposal System Construction Permit.
- Prior to issuance of Disposal System Construction Permit, the System Owner shall record in the chain of title for the property in the Registry of Deeds or Land Registration Office, a Notice of Alternative Disposal for the MicroFast tank and Geoflow Dip Tubing system. The System Owner shall provide to the Public Health Office a copy of a certified Registry copy of the Deed Notice bearing the book and page/or document number.
- Prior to issuance of Disposal System Construction Permit, the System Installer must certify in writing to the Designer, the Public Health Office, and the System Owner that (s)he is a locally approved Installer and has received appropriate training for the installation of a MicroFast tank and Geoflow Dip Tubing system. In addition to the certification, proof of training must be submitted to the Public Health Office.
- Prior to the issuance of a Certificate of Compliance, the System Installer and Designer must provide to the Public Health Office, in addition to the certifications required by

- Title 5, certifications in writing that the System has been constructed in compliance with the terms of the MicroFast tank and Geoflow Dip Tubing system, Title 5, the approved design plans, and all local requirements.
- Prior to issuance of Disposal System Construction Permit, 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.
- Conservation Commission Approval of the septic design plan must be obtained prior to the issuance of the Disposal System Construction Permit.

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

6:09 - Director of Public Health Report:

17 Stage Hill Road: The owner has not complied with the Board's order for correction set forth on April 14, 2021. The Board ordered the owner to obtain compliance by April 30, 2021 for all violations except the 4 the owner requested to be addressed by the new owner. The Board of Health denied the request and granted an additional 30 days; until May 12, 2021, to correct these 4 violations. A criminal complaint was filed in court and a hearing will be held on June 24, 2021.

13 Liberty Street: A criminal complaint was filed in Court against the owner since he did not comply with the Board's April 30, 2021 deadline to demolish the barn. The owner has since removed the barn and the criminal complaint was withdrawn.

COVID-19 Case Update: Colleen Fermon said Ipswich has had 798 confirmed COVID-19 cases since March 1, 2020. Currently there are 2 active cases, people under isolation.

COVID-19 Vaccine Update: On May 18, 2021, the Greater Cape Ann Community Coalition (GCACC) was approved as a regional COVID19 vaccination coalition. The GCACC is a group of Cape Ann towns including Ipswich, Topsfield, Middleton, Hamilton, Wenham, Essex, Manchester and Rockport. There will be three main clinic sites, Our Lady of Hope in Ipswich on Mondays, Coolidge Hall at Topsfield Fairgrounds on Thursdays and Rockport Elementary School drive through clinic on Saturdays. The clinics will be open to all residents of the Commonwealth. The coalition will be administering Pfizer vaccine and has the flexibility to administer vaccine in a variety of settings, potentially starting next week in Topsfield and Rockport.

Ipswich held its first COVID-19 Regional Clinic today at the Council on Aging. Beginning June 21, 2021 the clinics will be held on Monday's from 1:00 pm – 4:00 pm at Our Lady Of Hope Church with the exception of holidays. Clinics will run through the fall based on turn out. John Morris is the on-site Coordinator for Ipswich.

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

Adjourn: Amanda Donovan made the motion to adjourn at 6:20 PM. Dr. Boreri seconded the motion. The motion to adjourn passed unanimously.

Documents used at the June 7, 2021 Board of Health meeting:

- 310 CMR 15.000, Title 5.
- 105 CMR 410.00, Minimum Standards of Fitness for Human Habitation
- Title 5 Inspection Report for 24 Allen Lane.
- Letter dated December 14, 2020 from Colleen Fermon regarding 24 Allen lane.
- Letter dated January 25, 2021 from John Morris regarding 24 Allen Lane.
- Letter dated May 12, 2021 from Colleen Fermon regarding 24 Allen Lane.
- December 7, 2020 minutes
- Septic System Plan for 40 North Ridge Road.

Susan C. Hubbard, Chairperson

Dr. Susan Boreri, Board Member

Amanda Donovan, Board Member

