

**BOARD OF HEALTH
LAKEVILLE, MASSACHUSETTS
MEETING MINUTES**

August 29, 2007

Present: Board of Health Chairman William E. Garvey, Jr.; Board Member Jennifer Turcotte, and Board Member Terrence Flynn.

Absent: Board of Health Agent Lawrence Perry.

Chairman Garvey called the meeting to order at 7:00 p.m.

Nyles Zager of Outback Engineering, Inc. met with the Board relative to property located at **Lot 25, #13 Woodland Ridge Drive (31-2-19/25)** owned by **James and Dorothy Ugi**. Mr. Zager said they were requesting a variance from the Lakeville Board of Health Regulations requiring that the septic system shall not exceed 24" in elevation above the natural elevation at the location where the percolation test was performed. Mr. Zager told the Board a portion of the system does meet the regulation but it goes away from the 24" where the ground was roughly 32" above. Discussion was held relative to the breakout, finished cover, and the proposed foundation elevation. Zager said they were actually giving a 3' to the bottom of the footing and were going to be using a more conservative 3' to groundwater where some of the logs were 4'. After further discussion, Board member Flynn made a motion to approve the above requested variance. Board Member Turcotte seconded the motion, and it was so voted.

George R. Collins, P.E. of Collins Civil Engineering Group, Inc. met with the Board relative to property located at **5 Bristol Street (51-1-14)** owned by **John DaRosa**. **Mr. John DaRosa** was also present at the meeting. Collins stated that they were requesting the following local upgrade approvals pursuant to Massachusetts General Laws 310 CMR 15: (1) Variance from Section 310 CMR 15.211 of the State Sanitary Code which requires a minimum 100' setback from a private drinking water supply to a leaching facility. Variance allowing a reduction from 100' to 72' is requested (Locus well). (2) Variance in accordance with DEP Policy #BRP/DWM/PEP-POO, allowing a percolation rate to be established via grain size distribution analysis is requested. (3) Local Upgrade Approval from Section 15.227 of the State Sanitary Code which requires a minimum 12" vertical separation between the high ground water elevation and the lowest tank invert. A local upgrade approval allowing a reduction from 12" to 1" is requested. After some discussion, Board members stated that they would require a two bedroom deed restriction (restrictive covenant) on the property because of the designed system, and they would also require a current well water analysis on the locus well. Turcotte then made a motion to approve the plans and variances requested subject to receiving a current well water analysis on the locus well and a stamped recorded deed restriction (restrictive covenant) stating that the dwelling will remain a two-bedroom (2) dwelling with no increase in flow to the septic system. Board Member Flynn seconded the motion, and it was so voted.

George R. Collins, P.E. of **Collins Civil Engineering Group, Inc.** met with the Board relative property located at **8 Hollis Avenue (42-6-5)** owned by **Emmanuel Machado**. Mr. Machado was also present at the meeting. Collins stated that Machado was present so that he could give the Board some supplemental information on the current use of the property and the proposed use for the property. Collins said they were submitting an application request for the use of a “tight” tank for the sewage system, and they were requesting a proposed new drinking water well on the property. Collins said they were requesting the following local upgrade approvals pursuant to Massachusetts General Laws 310 CMR 15: Title V – Local Upgrade Approval Variances (1) Use of a Tight Tank vs. the use of a conventional septic system. (2) Variance from Section 310 CMR 15.211 of the State Sanitary Code which requires a minimum 100’ setback from a private drinking water supply (Proposed) to a leaching facility. Variance allowing a reduction from 100’ to 62’ is requested. Lakeville Board of Health Regulations Variance (1) Variance from the Town of Lakeville Regulations which requires a minimum lot size of 20,000 S.F. for a private drinking water supply well. Variance allowing a reduction from 20,000 S.F. to 10,000 S.F. is requested. Collins stated that this property was an existing (2) two-bedroom “seasonal” home and Mr. Machado planned on keeping it as a seasonal home even if he got approval for the installation of the well. Collins stated that Machado had access to the “seasonal” water supply (Clark Shores Water Corporation) but he never had it turned on. Mr. Machado stated that he just purchased the house last year, but never hooked up to the “seasonal” water supply because he heard that it wasn’t good water. Chairman Garvey told Mr. Machado that the “seasonal” water supply was tested all the time by a certified water operator per the Department of Environmental Protection’s parameters, so it may be better than some private wells in Town. Collins said they were requesting the tight tank to accommodate the well so they wouldn’t have another soil absorption system too close to the proposed well. Chairman Garvey told them that a tight tank was supposed to be a last resort for a sewage system. Board members stated that a tight tank wasn’t a last resort for a sewage system on this lot because he didn’t have an existing well on the property right now, and he would be affecting everyone around him. Board Member Turcotte stated she would not be inclined to approve a well on this lot and believed that the Department of Environmental Protection would either. Machado stated that he definitely had to repair the septic system. Mr. Thomas Carter (abutter) of 6 Hollis Avenue asked how this would affect them if this installation was approved. The Board explained how it would affect him and the neighboring properties. After further discussion with Mr. Machado on the proposed well and tight tank, Collins said they would like to withdraw their application without prejudice. Board Member Turcotte then motioned to accept the withdrawal without prejudice. Board Member Flynn seconded the motion, and it was so voted.

George R. Collins of **Collins Civil Engineering Group, Inc.** met with the Board relative to property located at **221 Hemlock Shore Road (45-2-18)** owned by **Warren Rand**. Collins said they were here with a request for a local upgrade approval associated

with the upgrade of a septic system. Collins said Rand owned property on both sides of Hemlock Shore Road which is a private way, so he has ownership rights to the middle of the road for both sides. Collins said they were proposing a crossing of that private way and putting the septic tank and pump chamber near the house and pumping it across the road to a nice sandy area where they have plenty of room and they were also achieving the 400' setback from Long Pond with the leaching facility. Collins said they were here requesting the following three (3) local upgrade approvals: (1) Variance from Section 310 CMR 15.211 of the State Sanitary Code which requires a minimum 400' setback from a surface water supply (Long Pond) to a septic tank. Variance allowing a reduction from 400' to 120' is requested. (2) Variance from Section 310 CMR 15.211 of the State Sanitary Code which requires a minimum 400' setback from a surface water supply (Long Pond) to a septic tank. Variance allowing a reduction from 400' to 126' is requested. (3) Variance from Section 310 CMR 15.211 of the State Sanitary Code which requires a minimum 10' setback from a water service to a septic component. Variance allowing a reduction from 10' to 4' is requested. Chairman Garvey asked how far the pump line was and Collins said that it was about 280' or 290'. Collins said that they did a drain back and figured out the calculations. Garvey asked if it would affect the flow, and Collins replied in the negative. Collins said that the pump settings were set up to pump at four (4) doses per day, and explained this in more detail. Discussion was held relative to the pump line, the drain back, the slope of the road, spot grades, the amount of cover material over the pipes, and the sleeving of the water service under the roadway. Garvey told Collins that some of those specifications were omitted on the proposed plan and definitely should be on the "As Built". Collins said that he could do that. Garvey said that the specifications on the sleeving under the road should be on the "As Built" incase something happens down the road, so maybe they wouldn't have to dig up the road again. Turcotte then made a motion to approve the plans as submitted subject to the spot grades being provided on the "As Built" plan, specifying minimum cover and minimum pitch on the "As Built" plan, and specifying the sleeving of the water service under the roadway. Flynn seconded the motion, and it was so voted.

David J. Walsh, R.S. of SouthCoast Septic Design met with the Board relative to property located at **9 Surrey Drive (25-6-12E)** owned by **Donald Way**. Walsh noted that this was an existing (5) five-bedroom dwelling and they were requesting the following two variances: (1) To allow the use of the existing 1,000 gallon septic tank with effluent to filter installed in lieu of installing a new 1,500 gallon tank. (2) To allow an increase of final grade over a portion of the subsurface disposal system to be greater than 36". A depth of 50" over 25% of system to match existing grade. System will be vented and chambers have a maximum burial depth of 96" per manufacturer's guidelines. Walsh said he was asking for the first variance only because the existing septic tank was in a vastly landscaped area and there would be a significant increase in cost to replace both the tank and the landscaping. Board Member Turcotte asked what age was the septic tank. Garvey noted that it would have to be pumped and inspected. Flynn asked Walsh what was the criteria for the failure on the system. Walsh said that the failure was

at the leach pit; it was backing up into the leach pit and it was in the riser the first time he opened it. Flynn asked if the five bedrooms could be the cause of it with only the 1,000 gallon tank. Walsh stated, currently, only three bedrooms were in use; one bedroom which is downstairs on the first level that's actually used as a study, and when they (Larry and him) did the walk-thru, the fifth bedroom came from a finished room that was in the basement. Garvey believed the difference between a 1,000 gallon tank and a 1,500 gallon tank was the amount of sludge. He said it was the bacteria in the tank that made septic systems work, but people wash their hands now with antibacterial soap, and they're killing all the bacteria in the system. Garvey said people don't realize what it does to their systems. Turcotte noted that the tank was twenty (20) years old and they were replacing other components. Turcotte believed the tank should be pumped and inspected. Garvey said if the tank was fine, good, but if it isn't then it has to be replaced. Flynn then made a motion to approve the variances subject to an inspection of the 1,000 gallon tank. Turcotte seconded the motion, and it was so voted.

Board Member Turcotte made a motion to approve the **Sunday Ice Cream License** renewal for **Royal Pizza** at **68 Main Street**. Board Member Flynn seconded the motion, and it was so voted.

Board Member Turcotte made a motion to approve a **One Day Common Victualler License** for **Fall River Municipal Credit Union** at **290 Bedford Street** on Saturday, September 8, 2007 from 12:00 Noon to 4:00 p.m. (Rain Date: Sunday, September 9, 2007). Flynn seconded the motion, and it was so voted.

Board members received a request from **Terrence Flynn** of **23 Nachaomet Road (65-4-24/23)** for a variance from the "Residential Swimming and Wading Pool Regulations". The regulation states that "A pool shall be located no closer than twenty (20') feet from a dwelling, and ten (10') feet from the septic system or any soil absorption system component". Flynn stated in his communication that he was requesting to be allowed to decrease the setback distance for a proposed in-ground swimming pool from his house foundation from 20' minimum to 10' minimum. Chairman Garvey said he would entertain a motion to approve the variance requested; to be allowed to decrease the setback distance for a proposed in-ground swimming pool from the house foundation from 20' minimum to 10' minimum. Turcotte so moved, Garvey seconded the motion, and it was so voted. Board Member Flynn abstained whereas it was for his property.

(Tabled from meeting of August 15, 2007) **Lucille Fortunato** of **5 Elders Pond Road (27-1-6)** was present relative to her application for a Stable Permit. Garvey told her they had another problem there now. He said the Board received a copy of a **"WPA Form 9 – Enforcement Order"** on August 21, 2007 from the Lakeville Conservation Commission and the Massachusetts Department of Environmental Protection. The location of the violation was with the City of Taunton Water Department. The extent and type of activity was the "clearing of buffer zone and bank to Elder's Pond of trees and shrubs".

“One or more trees have been dropped into Elder’s Pond.” “Violation is on property owned by the City of Taunton Water Department.” Fortunato remarked, “Why would this be pertinent to the stable permit?” Garvey told her the Board could not act on it if there was a violation on her property with any Town department. Fortunato said she went to a conference in New Hampshire over the weekend and came home to brush and a couple of trees cut down without her knowledge. She said she spoke with the Conservation Commission person on this and told him that she was not even aware of the problem, and then the Conservation Commission person told her that she was responsible for it because she owned the property. Mrs. Fortunato said that she assured the Conservation person that she would rectify the problem and that the betterments would be done over time. Fortunato said she also spoke with Mr. Chamberlain (Lakeville Conservation Commission) on this and he told her that they would look into it. Fortunato said she was not aware of this violation at the last meeting on August 15, 2007. Garvey said they could possibly entertain a motion, but one of the Board members should talk with the Conservation people to see if there was still an issue there; and if there wasn’t an issue fine. Board member Flynn asked if they could approve it subject to resolution of the Enforcement Order. Garvey said he wouldn’t have a problem with that, but he didn’t want to do this without going through Conservation first. Board member Flynn asked about the fence location. Garvey said he wanted to check with Health Agent Perry on this whereas he wasn’t present here tonight and also with Animal Inspector Darling relative to the coral and septic system tomorrow. Karen Quinn (abutter) of 3 Elders Pond Road said she was concerned about the paddock area being near her well. Quinn asked if there was a restriction as to how close it could be in the back yard which would be next to her well. Garvey told Quinn that they like to see nothing within 100’ of a well. Lucille Fortunato then showed the Board a plan of her property and explained various areas. Fortunato’s builder was also present at this meeting. Quinn stated that Fortunato’s barn was basically adjacent to her house, but the paddock area is in front, and also there’s a whole fenced in area in the back yard. Quinn said she didn’t know if she should get her well water tested. Board Member Turcotte said she should have her water tested every year anyway. Quinn said she was just concerned that there would be horses pooping where she drinks her water. Board Member Turcotte then scaled the plan. Fortunato told Turcotte where the barn, paddock area, and fenced area was. After further discussion, Garvey said he would talk with Health Agent Perry and Animal Inspector Darling, and check with the Conservation Commission on this. Turcotte said she would make a motion to approve the stable permit subject to resolution of the Enforcement Order. Board Member Flynn seconded the motion, and it was so voted. Garvey told Fortunato that he would contact her one way or the other as to what was going on after speaking with everyone.

Board Member Turcotte made a motion to approve the minutes of the meeting of June 27, 2007 as typed. Flynn seconded the motion, and it was so voted. Chairman Garvey abstained from the vote whereas he was absent from this meeting.

Board Member Flynn made a motion to approve the minutes of the meeting of July 11, 2007 as typed. Chairman Garvey seconded the motion, and it was so voted. Board Member Turcotte abstained from the vote whereas she was absent from this meeting.

Not on Agenda (Informational) Discussion was brought up pertaining to a letter sent out to Remax Realtor Tom Pemberton relative to property located at 16 Fourth Avenue (41-11-4) by Health Inspector Joseph Beneski. In this letter, Inspector Beneski stated that a Title V Inspection was done on August 13, 2007 and they discovered a well on the property. According to Inspector Beneski, there never was a well permit issued by the Board of Health to install a well on this property, and in fact, at the March 20, 2002 meeting, the Board of Health denied without prejudice a request to install an artesian well by the owner Mr. Kenneth Wetherell. Turcotte asked if someone has spoken with the property owner. Garvey said this was now a bank owned property. No other action was taken at this time.

Not on Agenda Chairman Garvey noted at the last meeting of August 15, 2007 Prime Engineering, Inc. met with the Board relative to property located at **6 Island Road (41-3-3)** and a request was made for a local upgrade approval from Section 310 CMR 15.227(5) of Title V which requires a 12" separation distance between a tank inlet and high groundwater. Engineer Bissonnette stated that a reduction from 12" to 3" was requested. After some discussion Board members said that there was a need for another Title V Inspection. There was also discussion on groundwater and an inspection of the tank, after which it was voted to grant the above request subject to another Title V Inspection being performed, a groundwater confirmation, and an inspection of the tank, and documentation for the Soil Evaluation would need to be submitted since a waiver of the Soil Evaluator was not requested.

Not on Agenda Garvey asked Supervisor Teser if Health Clerk Souza called the Department of Environmental Protection today relative to the Heritage Hill Country Club informing them that they had a grill, stove, and fry-o-later there prior to 1997. According to Teser, Souza called Chuck Shurtleff of the Drinking Water Division today and left the message but he did not return the call as yet. Garvey said this was relative to the drinking water supply at the club, and the Department wanted to know if there was anything there prior to 1997. Garvey said he could give them written documentation on this if necessary because he built the place and knew what was in the kitchen.

Deborah Beaton of 9 Elders Pond Road (abutter of 5 Elders Pond Road) had another question relative to the Stable Permit application for 5 Elders Pond Road. She wanted to know if the horse manure was going to be a problem for her whereas her property was so near, and how they (Fortunato) were going to manage it. Beaton wanted to know what the guidelines were for the town. Garvey told her, first of all, she should have brought

all these questions up while Mrs. Fortunato was here because she wasn't on the agenda. Garvey said all these concerns were addressed at the meeting on August 15, 2007. According to Garvey, they were told that any complaints should be forwarded to the Board of Health Office and they would look into it. Garvey told her that the manure has to be taken off site. Ann Price of 6 Elders Pond Road was also present with some concerns. Garvey told them he would send Jared Darling out there again to view the property and take measurements relative to the paddock area and fencing. There was also some discussion on possibly adopting stable regulations

Vendor warrants were signed by the Board.

At 8:30 p.m. a motion was made by Turcotte, seconded by Flynn, and so voted by the Board to adjourn the meeting.

Submitted by
Nancy M. Teser