

Acton Board of Health – Minutes  
May 19, 2003  
Room 126, Town Hall



Board Members Present: William McInnis, Chairman, Mark Conoby and Roxanne Hunt.

Staff Present: Doug Halley, Health Director, Brent Reagor, Health Agent & Sheryl Ball, Secretary

Others: Dick Dolan, Mary Michelman, Dr. Bela Matyas, Tim Deschamps, Matt Liebman, Kevin Ritchie, Patrisya Fitzgerald, Larry Green, Dean Charter, Ian Rubin and Kevin Sweeney.

The meeting was called to order at 7:40 p.m.

#### **Mosquito Control Policy**

Dr. Bela Matyas from the Department of Public Health was before the Board to discuss the Mosquito Control Policy. Dr. Matyas reviewed the mosquito policy and stated that he does not recommend any changes. The Board asked Dr. Matyas if the state will help the communities regarding West Nile Virus. Dr. Matyas stated that state will get involved with spraying if they feel that can make a difference. Last year there were 25 human cases which occurred late in the summer making it too cold to effectively spray so the state chose to educate. Mr. Deschamps from the Central Massachusetts Mosquito Control Project stated that they are currently larvicing sheltered areas, sewer systems, culverts and catch basins. Mr. Deschamps stated that he has received approximately 12 calls for larvicing and 3 calls for adulticing but anticipates additional calls in the next few weeks from residents of Acton. Mr. Deschamps also stated that there are typically 200 Acton Residents on the no spray list. Dr. Matyas stated that the State will also continue to test dead birds for the West Nile Virus, however, the testing will be more random. Dr. Matyas also spoke about Lyme Disease and Eastern Equine Encephalitis stating that the public should be more aware of these diseases.

#### **NARA Park – Water Quality**

Mr. Halley stated that it was brought to the Health Department's attention that the water quality testing at NARA Park for the last season did not factor in the geomean. The Department of Public Health Regulations 105 CMR states that for fresh water the sample shall not exceed more than 235 colonies per 100 ml of E-Coli and the geomean of the most recent five samples within the bathing season shall not exceed 126 colonies per 100 ml. Mr. Halley stated that the pond exceeded the geomean last season during July 29-August 6<sup>th</sup> six (6) times and on two occasions the pond was not closed. Mr. Halley stated that this was clearly an oversight by the Health

Department and assured the Board that this will not be overlooked again. Mr. Matt Liebman stated that he brought this matter to the Health Department because he feels that the pond has high levels of turbidity and that he feels that it is difficult to keep the pond at consistent levels due to the bather load, ducks and being a small pond with no outlet. Mr. Liebman stated that the pond will typically show high levels when the temperature is high. Mr. Liebman stated that shade around the pond could help with levels. Mr. Halley stated that the Health Department tests the water on Monday mornings due to the high bather load on the weekend. Mr. Halley stated that education is a key factor to keeping the levels low.

#### **Variance Request – 74 Washington Drive**

The property owner of 74 Washington Drive is seeking a post construction variance from 310 CMR 15.405(1)a & b for the reduction in the required setback to the property line and from the leaching field to the foundation wall. This variance is being requested post construction due to the bedrock ledge that was encountered during construction after the existing system was disabled. In order to construct a system with a footprint equal to the design plan the variances are needed. Mr. Halley stated that the abutters of the property have met with him and are in agreement with the variance. On a motion made by Mr. Conoby, seconded by Ms. Hunt, the Board unanimously voted to grant a variance to Title 5, 310 CMR 15.405(1) a & (1) b to 74 Washington Drive with the condition of the Board of Health approval letter dated November 26, 2002.

#### **Variance Request – 157 School Street**

Ms. Fitzgerald of 157 School Street is seeking a variance from Article 11-9.6 and 310 CMR 15.405(i) for the replacement of the septic system. Due to high groundwater and significant slope the Health Department recommends approval of this variance with the condition that there be a build out restriction. The Board asked Ms. Fitzgerald if she was aware of the build out restriction. Ms. Fitzgerald stated that she was aware of the build out but was told that a unattached garage would be acceptable. The Health Department reviewed the code and determined that the build out restriction is to the building. It was also stated that there is an existing garage structure type canopy. Mr. Halley stated that he would need to see the structure to make the determination if it is an existing garage. On a motion made by Ms. Hunt, seconded by Mr. Conoby, the Board unanimously approved an Article 11 -9.6 variance and a Local Upgrade Title 5, 310 CMR 15.405(i) to 157 School Street with the following conditions:

1. The system is required to be pumped a minimum of once every two years.

2. No increase in design flow or square footage of the building is allowed. All subsequent owners of the property must be notified in writing of this condition as defined in Title 5.
3. Before the Disposal Works Construction Permit is issued by the Board of Health Office, the applicant shall submit acceptance of these conditions in writing.
4. The system is built in accordance with a plan stamped by Peter Parent, PE to be submitted to the Health Department for approval.
5. All existing septic tanks will require a passing Title 5 inspection.
6. An effluent filter shall be installed.
7. An additional deep test hole shall be witnessed by a certified soil evaluator.

### **Public Safety Building – 365 Main Street**

The Health Department has received a request for an Article 11 Variance from David Ross Associates, representing the Town of Acton for the reconstruction of the Police Station located at 365 Main Street. Due to the location of the building, the depth to groundwater and severe slopes the system cannot meet all the requirements of Article 11. Mr. Larry Green was present to discuss the proposed system. In order to compensate for the decreased leaching size a 4500 gallon double chamber septic tank has been proposed. The engineer designed the plan based on a conservative design flow estimate. The Board asked why the leaching system could not be increased in size. Mr. Green explained that due to wetlands and grading issues this design is the best for the site. It was also explained that to meet the bottom loading rate it would be cost prohibitive to the Town of Acton to meet Acton Regulations. The estimated cost for a system that meets Acton Regulations would be \$350,000. The plan as designed has an estimated cost of \$125,000. Mr. Green also discussed the need for Health Department approval for the installation of a tight tank. The tight tank is needed if the police station employees continue to wash vehicles on site. There was much discussion whether car washing will be allowed. Mr. Halley stated that a tight tank is very cost prohibitive due to maintenance and would check with the Town Manager as to whether or not vehicles will be washed on site. The Board of Health discussed the financial hardship as presented by the Engineer and took into account the environmental compensation being provided by the designer. On a motion made by Mr. Conoby, seconded by Ms. Hunt, the Board unanimously voted to grant a variance due to manifest injustice to 365 Main Street from Article 11-9.1 to allow a 14% reduction in the leaching area with the following condition:

1. The system shall be built in accordance with a plan stamped by Gary Prime, dated May 5, 2003.

**Colonial Acres – 127 Summer Street**

Mr. Sweeney is before the Board to discuss rescinding a previous condition of an Aquifer Zone 2 Special Permit for Colonial Acres IV subdivision. Mr. Ian Rubin, design engineer, requests that the Board remove condition 9 of the approval that required the existing well at 127 Summer Street be abandoned or the plan be redesigned to meet the 150' setback from a well to the subsurface disposal system. Since the Board of Health's original approval it was determined that the well at 127 Summer Street was not identified when the owners at 127 Summer Street replaced their septic system and that their septic system is too close to their own well. Based on this information the owners of 127 Summer Street are obligated to remove the well. Mr. Sweeney stated that Colonial Acres IV septic plan is before DEP for approval and he would like to have condition 9 rescinded in the meantime. Mr. Sweeney stated that he has previously offered at his expense to abandon the well at 127 Summer Street for the owners. The Health Department will be issuing an order letter to the owners of 127 Summer Street requiring the owners to be in compliance with Article 16. Mr. Sweeney repeated his offer to pay for the associated costs for abandonment of this well. The Board took no action on this request, therefore the Board felt it premature to remove the condition.

On a motion made by Mr. Conoby, seconded by Ms. Hunt, the Board unanimously voted to take no action without prejudice and keep this issue open.

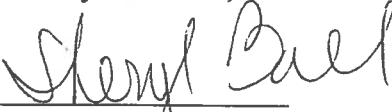
**Other Business**

- **433 Main Street** - Mr. Halley stated the owners of 433 Main Street have sought legal action against the installer and engineer of their septic system and he has been asked to give a deposition.

**Adjournment**

On a motion made by Mr. Conoby, seconded by Ms. Hunt, the Board unanimously voted to adjourn the meeting at 10:20 p.m.

Respectfully Submitted,

  
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Sheryl Ball

Sheryl Ball, Secretary  
Acton Board of Health

  
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William McInnis

Chairman  
Acton Board of Health