

Acton Board of Health

September 8, 2008

Members Present: William Taylor, Chairman, Joanne Bissetta, Acting Chairman, Mark Conoby, Member, William McInnis, Member, Pam Harting-Barrat and Joseph Iannelli.

Staff Present: Doug Halley, Health Director and Sheryl Ball.

Others Present: Peggy Mikkola, Representative of League of Women Voters, Steve Graham, Esq. and Doug Wilkins, Esq., Kim Choi, Tim Deschamps, Cristina Desa and Dave Schubert

The meeting was called to order at 7:32 p.m.

Minutes

On a motion made by Mr. McInnis, seconded by Mr. Conoby, the Board unanimously voted to approve the Board of Health minutes dated August 25, 2008 as amended.

VARIANCE – 9 Windermere Drive

The Health Department has received a request for a variance from 310 CMR 15.212(1)(a) for a reduction in the depth of the SAS from 4 feet to 2 feet and Remedial Use Approval from 310 CMR 15.284. The proposed system has been placed in the most suitable area due to the large amount of rock outcroppings on the site. The Health Department has reviewed this request and recommends approval. On a motion made by Mr. McInnis, seconded by Mr. Conoby, the Board unanimously voted to grant a variance from 310 CMR 15.212(1)(a) and 310 CMR 15.284 to the property located at 9 Windemere Drive with the following conditions:

1. The septic tank shall be pumped at a minimum of once every two years.
2. The system shall, at all times, be maintained in compliance with the most recent Remedial Use Approval issued by the MADEP for the CULTEC Field Drain Contractor C-4.

3. The system shall be constructed in accordance with the above listed conditions and a plan stamped by Scott Hayes, PE, to be submitted to the Health Department.

Mosquito Control Project – Tim Deschamps

Tim Deschamps, Executive Director of the Central Massachusetts Mosquito Control Project (CMMCP) was before the Board to discuss their program. The Board asked Mr. Deschamps to appear before the Board based on the increase in Lyme Disease in Acton. Mr. Deschamps gave an overview of the program and a summary of the work that was conducted for 2007. Mr. Deschamps stated that wetland restoration is an important part of CMMCP's Integrated Pest Management plan for mosquito control and 98 sites were visited in Acton. Some of the services that CMMCP provides are brush cutting, stream cleaning, culvert cleaning, stream survey's, larviciding, including catch basins), setting and picking up traps, public relations and adulticiding. The product that is used to reduce the mosquito population is Bti (Bacillus thuringiensis israelensis). The Board asked Mr. Deschamps if spraying Bti would help reduce the tick population. Mr. Deschamps stated that a lawn application of Bti may work to help with the tick population as ticks are susceptible to pyrethroids, however, it would be labor intensive and he is not sure that CMMCP's existing charter or manpower would allow for these applications. The Board asked if Bti is toxic to humans. Mr. Deschamps stated that the product is extremely toxic to fish and bees in the wet form only and that is why areas are sprayed after sundown. Mr. Deschamps further stated that other Massachusetts towns have had positive human biting mosquitoes test positive for West Nile Virus and as a result the CMMCP contacts the Town and recommends treatment options. Mr. Deschamps stated that after treatment more traps are placed where the mosquitoes can be collected and tested. The Board thanked Mr. Deschamps for coming.

Title 5 Waiver – 15 Nylander Way

The owners of the property located at 15 Nylander Way have requested a Title 5 Waiver as allowed under 310 CMR 15.301(4)(b). This property is located within the Mill Corner subdivision as a few years ago were before the Board for repairs to the existing septic system in the hopes that they would correct their problems. The Board approved the repairs conditioned on hooking up to the town sewer if the repairs did not work. Mill Corner has submitted plans to the

Health Department to connect to the town sewer and hopes to begin that process within two weeks. Mr. McInnis stated that the proposed conditions are restrictive and asked why the waiver request is not for 2 years. Mr. Halley stated that the recommended 120 day restriction is more than sufficient. On a motion made by Dr. Harting-Barrat, seconded by Ms. Bissetta, the Board unanimously voted to accept the Title 5 Waiver for the property located at 15 Nylander Way with the following conditions:

1. The property located at 15 Nylander Way shall connect to the Middle Fort Pond Brook Sanitary Sewer System within 120 days from the date of the waiver letter.
2. The onsite sewage disposal system will be serviced as necessary and an enforcement letter from the Acton Board of Health or the Massachusetts Environmental Protection Agency may shorten this waiver period should the system endanger the public or the environment.
3. The waiver, along with these conditions, shall be communicated in writing to the purchaser and any subsequent owners until the property at 15 Nylander Way is connected to the Town of Acton Middle Fort Pond Sanitary Sewer System.

SHOW CAUSE HEARING - QRCC

Dr. Taylor opened the show cause hearing. Dr. Taylor stated that this hearing is a continuance from the last meeting in which the Board asked Atty. Graham to speak with their lender to see if they are willing to allow the Town to have a second mortgage on the property. Atty. Graham was present and stated that he has spoken with the lender and was told that because of their current financial circumstances it would not be allowed. Atty. Graham stated if the proposal in front of the Planning Board for over 55 housing with a nine hole golf course is approved a new lender has agreed to finance the project and the money will be paid. Atty. Graham stated that their client is willing to honor the agreed upon settlement with the Board of Health and begin payments. Atty. Graham also stated that the settlement agreement has not been signed as there is language in the agreement that they do not agree to. Atty. Wilkins stated that at this point he would like to see Quail Ridge Country Club (QRCC) offer the Town more money or a personal guarantee in order to provide benefit to the Town. Atty. Graham stated that he was prepared to begin payments and could have started two (2) months ago and further stated that his client is not willing to make a personal guarantee. Mr. McInnis asked Atty. Graham if his client would be

willing to make catch up payments for the missed two months. Atty. Graham stated that he would ask his client. Dr. Taylor asked what the Board is accomplishing with these show cause hearings. It was stated that QRCC needs to sign the agreement and begin making payments. Atty. Graham stated that his client is not willing to sign the settlement agreement as is. Atty. Wilkins argued that we have an agreement and payments should have started. Dr. Harting-Barrat stated that she is a bit surprised that Atty. Graham didn't come in with a payment tonight. The Board stated that they have approved the original agreement, amended the original agreement and have worked with QRCC regarding their current predicament and too much time has passed and we have received nothing. Mr. McInnis asked for financial documents way back in the beginning and the Board has still not received them. Atty. Graham stated that he will provide them and wondered if the need to see them was only for curiosity. Mr. McInnis stated that the reason the Board should see them is not out of curiosity but out of the need to believe what QRCC has been saying for almost a year now as to why they have not started the payments. The Board summarized the meeting and asked Atty. Graham to ask his client to begin payments including back payments of two months of catch up for a total of \$15,000. On a motion made by Mr. McInnis, seconded by Mr. Conoby, the Board unanimously voted to continue this meeting until September 22, 2008 at 8:30 PM to give the attorneys time to come to agreement.

Adjournment

On a motion made by Mr. McInnis, seconded by Mr. Conoby, the Board unanimously voted to adjourn at 8:38 PM. On a motion made Mr. McInnis, seconded by Pam Harting-Barrat, the Board voted to enter into executive session for the purpose of discussing potential litigation. Role Call. All ayes.

Respectfully Submitted,

Sheryl Ball, Health Secretary
Acton Board of Health

William Taylor, Chairman
Acton Board of Health